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WILLIAM P. PENDLEY NOMINATION

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON THE

NOMINATION OF WILLIAM P. PENDLEY TO BE ASSISTANT SECRETARY FOR ENERGY AND MINERALS, DEPARTMENT OF THE INTERIOR

JULY 12, 1983

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WILLIAM P. PENDLEY NOMINATION

TUESDAY, JULY 12, 1983

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room SD-366, Dirksen Office Building, Hon. Malcolm Wallop, presiding.

Present: Senators Wallop, Hecht, and Melcher.

Also present: Charles A. Trabandt, chief counsel; Gary Ellsworth, deputy chief counsel for natural resources; and D. Michael Harvey, chief counsel for the minority.

OPENING STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator WALLOP. Good morning. Today the Committee on Energy and Natural Resources will conduct a hearing on the nomination of William P. Pendley to be Assistant Secretary for Energy and Minerals within the Department of the Interior.

This position includes responsibility for the Geological Survey, Bureau of Mines, Office of Surface Mining, Reclamation and Enforcement, Ocean Mining, and the Office of Minerals Policy and Research Analysis.

I am pleased to welcome my colleague—will be pleased to welcome my colleague, Senator Simpson, to the committee this morning who will join me in introducing Mr. Pendley.

Perry needs little introduction to most of the members of this committee. Many have worked with him when he served on former Senator Cliff Hansen's staff or when he worked in the House Interior Committee, or most recently, in his capacity as Deputy Assistant Secretary of the Interior for Energy and Minerals.

For those of you who do not know him, Perry is a Wyoming native who was born and raised in Cheyenne. After earning his BA and MA at George Washington University, he returned home to attend law school at the University of Wyoming. He then came back to Washington to work for my good friend and colleague, U.S. Senator Cliff Hansen, serving as Senator Hansen's legislative assistant on a wide array of natural resource issues. From there he went on to work as minority counsel for the House Mines and Mining Subcommittee of the Interior and Insular Affairs Committee.

With the advent of the Reagan administration, Perry was appointed Deputy Assistant Secretary for Energy and Minerals, and concurrently served for several months as the Acting Director of the Minerals Management Service.

Perry is an experienced, capable manager, lawyer, and policymaker with broad experience in energy and minerals issues. He has been particularly involved in formulating the President's minerals policy and in implementing improvements in the royalty accounting program.

I hope that this committee will support his nomination and look forward to continuing to work closely with him in the future.

I notice that my colleague, Senator Simpson, has arrived, and would ask him if he can step over the babies without stepping on the baby?

STATEMENT OF HON. ALAN K. SIMPSON, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator SIMPSON. How do you do, Senator Wallop? How are you this morning?

Senator WALLOP. Well, thank you.

Senator SIMPSON. Well, I'm sorry to be late, and I appreciate having this opportunity to briefly introduce Perry Pendley, and of course, you know him so well. I must say that certainly it is a different situation when you walk into a hearing room and find something that small and that intriguing nearly trampled as I was close to that.

Well, it is a pleasure to be here, and just offer a very few introductory remarks concerning Perry Pendley whom the President has nominated for the position of Assistant Secretary for Energy and Minerals of the Department of the Interior, and I heartily endorse this nomination, and would respectfully request that the committee swiftly recommend that he be confirmed by the full Senate.

I have known Perry for a number of years and can certainly add my voice to that of yourself, Malcolm, in saying that he is a most well-qualified person for this demanding, vital position, a very fine and capable gentleman.

He is I am proud to say, too, a native Wyomingite, and is uniquely qualified to perform this job in a responsible and professional way.

I know that all of us in the delegation have long shared the belief that this country must embark on a course that would promote energy sufficiency. In the past few years we witnessed the long lines at the gas stations, the crippling effects of the foreign oil embargo. I know how hard you have worked to try to develop an energy policy, and it has been most difficult as we struggle through the area of pricing controls and the things that have happened to our fragile economy. We realize our Nation's resources cannot be developed in a random, helter-skelter way and that we see Perry Pendley assisting in trying to get us out of that extremity because certainly a sensible and well-balanced approach to energy development is needed.

Well anyway, today we have this fine gentleman who served as the Deputy Assistant Secretary to Dan Miller who I might add did an extremely fine, capable job, so Perry has already played a very vital and moving role in developing current energy policy. He has been on board, and it seems only proper now that he should contin-

ue in this process as Assistant Secretary. He is extremely well qualified for the job. As Deputy Assistant Secretary since early in 1981 to the present, he has been tutored in this position and can immediately take up the reins without dropping the pace, and certainly the President also has recognized this, and he has some remarkable qualifications.

He worked for my predecessor, Cliff Hansen, a most able legislator and friend, as minority counsel for the Interior and Insular Affairs, Subcommittee on Mines and Mining in the House. I think it would be difficult to envision another position that would give him more opportunity to become so well acquainted with the problems as well as the possible legislative solutions to deal with the issues that confront us, and he brings all of these requirements and abilities to the new duty station, and I am very pleased to participate in this and to recommend him to you as he has served already as Acting Director of the Minerals Management Service, has a tremendously broad experience, trust from his peers that he has developed so rapidly in his young professional career and has been carefully prepared for this position.

Of course, his educational achievements are just as impressive as the professional ones—juris doctorate from the University of Wyoming Law School. I was privileged to take the same degree. He completed work on a bachelors and a masters in public affairs at George Washington—truly a remarkable and commendable feat; served our country in the Marine Corps and in overseas duty, and a dedicated family person with a lovely wife and the children you see here today, so these are just some of the reasons, too numerous to go on, and I lend my strong endorsement to this fellow Wyoming native, and I unhesitatingly recommend him to you for confirmation, and I thank you for this opportunity.

Senator WALLOP. Thank you. I am sure Perry does as well. You are entirely welcome to join us up here if you wish through the course of the nomination hearing.

Senator Hecht, do you have anything?

Senator HECHT. No.

Senator WALLOP. Well, Perry, if you would rise, please? The rules of the committee which apply to all nominees require that they be sworn in in connection with their testimony.

Please raise your right hand.

[Whereupon, William P. Pendley was duly sworn by Senator Wallop.]

Senator WALLOP. Please be seated. Before you begin your statement, there are four questions addressed to witnesses before this committee who are nominated for positions, and I would like to ask these questions of you.

First is, will you be available to appear before the committee and other congressional committees to represent the departmental positions and in response to the issues of concern to the Congress?

Mr. PENDLEY. Yes, I will.

Senator WALLOP. Your informational statement has been submitted to the committee. However, it is required that this statement be made public unless the committee decides that special circumstances justify an exception.

Do you have any objection to the publication of your informational statement?

Mr. PENDLEY. Mr. Chairman, I have no objection.

Senator WALLOP. Thank you. Are you aware of any personal holdings, investments, or interests that could constitute a conflict of interest or create the appearance of such a conflict should you be confirmed and assume the office to which you have been nominated by the President?

Mr. PENDLEY. Mr. Chairman, my investments, public and personal holdings, and other interests have been carefully reviewed by me as well as the appropriate Government ethics officials. All appearances of conflict and all conflicts have been dealt with appropriately, and I believe to the best of my knowledge that no conflict currently exists.

Senator WALLOP. Thank you very much. Lastly, are you involved or do you have any assets held in blind trust?

Mr. PENDLEY. I have no assets in blind trust.

Senator WALLOP. Thank you very much. Please proceed, Perry. You are most welcome here at the committee.

STATEMENT OF WILLIAM P. PENDLEY, NOMINEE TO BE ASSISTANT SECRETARY FOR ENERGY AND MINERALS, DEPARTMENT OF THE INTERIOR

Mr. PENDLEY. Mr. Chairman, members of the committee, Senator Simpson, I want to thank you, Mr. Chairman, for your kind introduction and for Senator Simpson's taking time from his busy schedule and other committees in which he is involved this morning to come here today to join with me in coming forward.

I would like to break just momentarily with tradition and introduce to you, Mr. Chairman, and to the committee, my wife and counselor of 14 years, Lis, and our two sons, Perry and Luke.

I am delighted to be here this morning and pleased to represent Secretary Watt as President Reagan's nominee to be Assistant Secretary of Energy and Minerals.

As you have indicated, I began my professional career here in this body when I served as professional staff member to Senator Hansen, and then when I traveled to the other body and served as minority counsel for the Mines and Mining Subcommittee of the House Interior Committee. For the past 2½ years I have served the President and Secretary Watt at the Department of the Interior as Deputy Assistant Secretary for Energy and Minerals. I am delighted to have received the President's trust and confidence, and I look forward to continuing the outstanding work of the President and Secretary Watt in the energy and minerals field.

I think no committee in the Congress is more aware of the impact of energy shortages and mineral dependence than this committee through the hearings, Mr. Chairman, that you have conducted, and I understand will conduct again later on this month, on these vital issues. I think there is action that can be taken, and there are efforts that must be undertaken to resolve these issues in a balanced and effective way in accordance with statute.

I look forward to implementing the President's program, the Secretary's program, and to working closely with this committee and

with the Congress to achieve the goals that we all desire for America.

Mr. Chairman, I will place before you my opening statement and allow it to be entered into the record and then stand open for any questions that you or the committee may have.

[The prepared statement of Mr. Pendley follows:]

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STATEMENT OF WILLIAM P. PENDLEY
before the
ENERGY AND NATURAL RESOURCES COMMITTEE
UNITED STATES SENATE
July 12, 1983

Mr. Chairman, Members of the Committee, I am honored to appear before you as President Reagan's nominee for Assistant Secretary, Energy and Minerals, at the Department of the Interior. Allow me, Mr. Chairman, the pleasure of introducing to the Committee my wife and principal counselor of 14 years, Lis, and our sons, Perry and Luke.

I was born and raised in Cheyenne, Wyoming. It is and has always been my home. My parents, my sister and brother live there today. Later this summer, I will return there with my family for the baptism of our son, Luke. I received my BA and MA degrees from the George Washington University and my law degree from the University of Wyoming. Prior to entering law school, I served as a Naval Flight Officer in the United States Marine Corps.

My professional career began in Washington where I had the honor of serving your friend and colleague of many years, Senator Clifford Hansen of Wyoming. In 1978, I served the U.S. House of Representatives as Minority Counsel to the Mines and Mining Subcommittee of the Interior and Insular Affairs Committee. For the past two and a half years I have been privileged to serve Secretary Watt as Deputy Assistant Secretary for Energy and Minerals.

My philosophy and my public policy perspective were shaped as a young man growing up in the West. My parents traveled west near the end of the Depression in search of opportunity for themselves and their children. My

mother, daughter of a coal miner, was born in Wallins Creek, Kentucky, in Harlan County. My father, son of a railroad man, was born in Decatur, Arkansas. From Appalachia and the Ozarks they traveled separate roads to Cheyenne, met, married and committed themselves to assuring their children a better life than the one into which they had been born. My father's quiet but unrelenting stoicism and my mother's overwhelming optimism joined to create in their children a dream of unlimited opportunity. I was a beneficiary of that philosophy and that commitment to the American dream of opportunity -- that a railroad man's son could grow up to make a contribution, to make a difference. I say beneficiary because that dream provided the inspiration and belief that made possible those successes which have been mine.

We are a nation of dreamers -- believing that our children can have better than we -- go farther -- live more safely, more freely. We can keep the dream of opportunity alive only if we grow. For it is economic vitality that ensures this pie we divide among a deserving nation has enough pieces for everyone. America does have the riches, the resources -- both human and natural -- to grow and prosper.

For that to occur, our Government and our people must continue to face some fundamental realities about the importance of adequate and assured supplies of energy and minerals. In the early 1970s, our Nation was shocked by energy embargoes from foreign suppliers. Long gas lines and threats of even more severe shortages sent lightening-clear messages to the public that changes were needed. Yet, almost ten years later we were still importing nearly one-half of our petroleum supply and more than one-half, and in some

cases nearly all, of the more than two dozen strategic minerals needed for military might and industrial strength. In short, America's growth was stifled and its position as a world leader threatened.

Inherent in President Reagan's commitment to strengthening our economy was a commitment to the balanced use of our natural resources. Thus we have changed the management of our natural resources to reduce America's vulnerability which resulted from our dependence upon unstable and unfriendly countries which supplied us with so much of our crude energy and strategic minerals.

It is clear that energy and minerals issues play integral roles in the domestic affairs of America while heavily influencing our relationships with other nations. We must never again find ourselves as vulnerable as we were in the winter of 1973.

America has great wealth and potential which, if properly managed, can meet our needs and help us maintain a strong leadership position abroad. The American people own vast resources both onshore and offshore. Our problem has never been a lack of energy or mineral resources. What we have lacked in the past is the balanced management of our resources for the benefit of consumers, our national security, and for the protection and enhancement of our environment.

We all share a belief in the economic strength and natural beauty of this country. I believe that this Nation's greatness depends on how we manage our human and natural resources. If confirmed, I am committed to the balanced management of our natural resources in a manner to promote growth, preserve national security, and protect our natural environment.

4.

As a westerner, and one who still calls Wyoming home, I am concerned about protecting the beauty and the ruggedness of my native West and I feel a kinship with others throughout this vast Nation who pursue the same goal for the land we love. Only a strong economy can support a clean and improving environment. We can have energy and mineral resource development in this Nation, jobs for our citizens, and have a better environment. We do not have to choose one at the expense of the other.

Together we share a trust in the ability of this Nation to keep the dream of opportunity alive, to continue to make it a reality for generations of Americans. If confirmed, I will work closely with the Congress and the States to assure that we continue to build a stronger America that will provide opportunities for economic freedom and the enjoyment of our national heritage.

Senator WALLOP. Thank you, Perry.
Senator Symms, did you have a statement?

STATEMENT OF HON. STEVEN D. SYMMS, A U.S. SENATOR FROM THE STATE OF IDAHO

Senator SYMMS. I thank you for recognizing me, Mr. Chairman. I only want to say that Perry Pendley worked for me when I was on the other side, and I can't think of a better man for the job.

Senator WALLOP. Were you once a Democrat?

Senator SYMMS. No. I mean on the other side of the Hill—the House.

Senator WALLOP. I figured that is what you meant, for the record.

Senator SYMMS. As a former marine, the marines are taking over everything, and I think that will help the Interior Department to have this perspective of the world.

Senator WALLOP. Oh, Lord.

Senator SYMMS. Thank you, Mr. Chairman.

Mr. PENDLEY. Thank you, Senator.

Senator WALLOP. Senator Hecht, any questions?

Senator HECHT. I will just ask you one question. You have your two children there, very cute. What are their names, William and Luke?

Mr. PENDLEY. Yes, sir—William Perry and Luke.

Senator HECHT. I will ask you one simple question. Will you strive to the best of your ability to make our environment better for them than when you came upon this Earth?

Mr. PENDLEY. Senator, that is my strong personal commitment. I think we are all committed to improving the environment, and I believe that we can have a better environment in the years ahead than we have today. At the same time, we will secure opportunities

and jobs and a balance for this Nation, and I am committed to that.

Senator HECHT. Thank you very much.

Mr. PENDLEY. Thank you, sir.

Senator WALLOP. Would you not say that the environment includes that environment which affords the opportunity for a job and a life of prospects for children and other things?

Mr. PENDLEY. Mr. Chairman, there can be no question. I think the way to insure that we have environmental protection and improved conditions in this country is to have that opportunity and that growth.

Senator WALLOP. Do you have any questions?

Senator SIMPSON. No. Thank you very much. I appreciate being here. Thank you very much.

Senator WALLOP. Some members of the committee may have questions which they wish to submit in writing and I would assume that you have no objection to answering those?

Mr. PENDLEY. Not at all, Mr. Chairman, and as soon as they are delivered to me I will return them expeditiously with responses.

Senator WALLOP. I would advise the committee that the written questions should be submitted as soon as possible and I would prefer to have them by the close of business today.

Mr. PENDLEY. Thank you, Mr. Chairman.

Senator WALLOP. Senator Melcher apparently wished to ask some questions. I will just check and see what his availability would be.

We will have the committee stand in recess for 5 minutes.

[Whereupon, a brief recess was taken.]

Senator WALLOP. The hearing will come to order. I would recognize Senator Melcher.

Senator MELCHER. Thank you, Mr. Chairman.

Senator WALLOP. I point out we did hold the hearing for you for some 20 minutes.

Senator MELCHER. Mr. Chairman, maybe we could clear this up. I had another committee meeting that started at 9:30 and I did the best I could to be here. If I have inconvenienced you or Mr. Pendley, I indeed regret it.

Mr. Pendley, are you Acting Assistant Secretary now or not?

Mr. PENDLEY. It is my understanding, Senator, that I am able to act for a period of 30 days following the departure of the Assistant Secretary, and at the current time I am Deputy Assistant Secretary and as Deputy Assistant Secretary, I fulfill the responsibilities of that office.

Senator MELCHER. Who was fulfilling the duties of that office prior to your becoming Acting Assistant Secretary?

Mr. PENDLEY. Dr. Dan Miller was the Assistant Secretary for Energy and Minerals. Dr. Miller was a former geologist with the State of Wyoming.

Senator MELCHER. When did Dr. Miller leave his position?

Mr. PENDLEY. It is my understanding, as I recall, Senator, that Dr. Miller departed on the 30th, the last day of May of this year.

Senator MELCHER. So it has been some 40 days since Dr. Miller left?

Mr. PENDLEY. Yes, Senator.

Senator MELCHER. You have been deputy during this period or not?

Mr. PENDLEY. I have been deputy since the 5th of March 1981, sir.

Senator MELCHER. What happened with the question of the Minerals Management Service in regard to issuing out the regulations on the Royalty Management Act that we passed last year?

Mr. PENDLEY. Well, Senator, thanks to the leadership of Senator McClure, Chairman McClure, and thanks to your deep involvement and assistance in getting that legislation enacted, I think in record time, we now have a statute that will allow us to faithfully and fully enforce the law with regard to the collection of royalties.

As you recall, that legislation was somewhat complex and detailed and specific in its requirements, and I think appropriately so, given the 20 years of lack of attention that was paid to the issue, and we have been moving aggressively in the Department to prepare regulations in anticipation of your concern because I know of your deep personal involvement in this issue, and we are grateful for that involvement because you helped us craft what I think was a fine piece of legislation.

I did query the Minerals Management Service as to the state of the regulations and I was advised that they are undergoing final revision pursuant to delivery to my office, to deliver to the Federal Register as the proposed notice of rulemaking with regard to the MMS, Minerals Management Service's responsibilities.

Senator MELCHER. Then I think this hearing comes at a very timely point because one of the things that we intended in the Federal Oil and Gas Royalty Management Act was for the inspection of the lease operation to be closely coordinated with the collection of the royalties. As far as I can tell from what you people have been devising at the Department, despite the efforts of the Congress and the results of the Linowes Commission, you have been doing exactly the opposite. You have BLM making the inspections, and then you have a different agency collecting the royalties. Isn't that right?

Mr. PENDLEY. Senator, on the 3rd of December of 1982, Secretary Watt made the decision and signed a secretarial order placing the onshore responsibilities of old Conservation Division of the U.S. Geological Survey, at this time the Minerals Management Service, within BLM.

As you know, the General Accounting Office and a number of other responsible individuals have for decades called for the consolidation of the onshore responsibilities, decrying the rather artificial split between the preleasing and postleasing activities, and so the Secretary concluded and I think appropriately so, that in order to insure coherent, cohesive, effective management of onshore leasing which is I know a prime concern of this committee and the Senate, he consolidated those activities.

All of the inspection personnel that were being utilized to inspect aggressively, and we did double and treble our onshore inspecting efforts since the Secretary's arrival at the Department have now been transferred to the BLM where they will continue to move in just that aggressive fashion.

In addition, cooperative agreements with States and Indian tribes have been worked out whereby State inspectors and Indian leaders will be able to assist us as we assist them in insuring the inspection of these oil and gas leases on the public's lands as well as on the Indian reservations. So I think we have a close working relationship between Director Bob Burford of the BLM and Acting Director Dave Russell of the Minerals Management Service to insure that we are working hand in glove to fully implement the act which you were so instrumental in finalizing and sending to the President.

Senator MELCHER. Now to answer my own question, Mr. Pendley, you have arranged in the Department of the Interior exactly what the Linowes Commission did not recommend; in fact, what it recommended against. This is directly contrary to the intent of the bill which is to assure that the inspection of the leases, as well as the payment and collection of the royalties be dovetailed together. You have done exactly the contrary, have you not?

Mr. PENDLEY. I don't think the Commission spoke specifically to the action that we took. They recommended that we remove the Conservation Division from the U.S. Geological Survey because——

Senator MELCHER. Well, Mr. Pendley, I am going to cut this answer short because I have asked you to review the Commission's report which makes a solid recommendation that royalty accounting and lease inspection functions be consolidated into one organization.

Mr. PENDLEY. Well, Senator, as I recall the report, and you perhaps as a result of your more recent review are more informed than I am——

Senator MELCHER. My conclusions are not the result of a recent review. Rather they are a summary of the Linowes report.

Mr. PENDLEY. As I recall the report, they recommended the movement of the Conservation Division out of Geological Survey.

Senator MELCHER. That does not respond to the point of my question, Mr. Pendley. Now if you are not prepared for this——

Mr. PENDLEY. I am fully prepared.

Senator MELCHER. That is not the point. The point is the consolidation of the inspection and accounting functions.

Mr. PENDLEY. We do not currently have, Senator, the inspection and the accounting functions together in one organization.

Senator MELCHER. You certainly don't.

Mr. PENDLEY. To the extent that they are MMS and BLM; to the extent that they are under the Secretary's leadership, to the extent that they are in one agency—the Department of the Interior—and the Secretary has been personally and deeply involved in insuring that we fulfill our responsibilities under the Leasing Act——

Senator MELCHER. And two assistant secretaries, right?

Mr. PENDLEY. And two assistant secretaries.

Senator MELCHER. You have flown in the face of both the Linowes Commission and what the bill attempted to do. I suppose we should have expressly stated that the Secretary shall have both functions under the same assistant secretary so there would be a straight chain of command right to the Secretary of the Interior.

Mr. PENDLEY. Senator, I appreciate your concern with regard to that aspect of the reorganization of the consolidation, but we also

had, on the other hand, the rather very artificial split between the prelease and postlease functions and redundancies that were involved there. We had two independent agencies or two agencies within the Department of the Interior who on 19 specific leasing functions were interrelated on 8 or 9 of them, so we did have a difficult problem, and on one issue I think we resolved the problem. On the issue that you are concerned about, I think as far as you are concerned we may have increased our difficulties, but I feel that they are surmountable.

Senator MELCHER. What was your involvement in the proposed regulations? You were directly involved, were you not?

Mr. PENDLEY. I was the Acting Director of the Minerals Management Service, and I was the Department's—except for one occasion when I testified with Under Secretary Don Hodel before this committee at which time we joined you in discussions—I was the Department's and the administration's witness on the statute that we requested.

Senator MELCHER. Is the answer yes?

Mr. PENDLEY. You asked about regulations, Senator. I haven't seen any regulations yet because the Minerals Management Service has yet to finalize them for my signature.

Senator MELCHER. Is the answer no then?

Mr. PENDLEY. The answer is no on regulations, yes on the statute, Senator.

Senator MELCHER. Didn't you have any interest, after the bill was passed, in how the regulations were drafted?

Mr. PENDLEY. We continued discussions with the Minerals Management Service as to where they were, what was in the statute, what different direction they were taking with regard to specific provisions. We have established an advisory committee, as the Linowes Commission recommended, and we had a meeting just 2 weeks ago in Casper, Wyo., regarding the regulations. I will review them carefully when they come to my office. I am comfortable with the policy direction that is being carried forward by the Director of the Minerals Management Service. He knows of my interest and concern.

Senator MELCHER. I am not comfortable with it at all, but I hope to get comfortable before we are all through with this. Before you are in the saddle, I hope I get comfortable.

Mr. PENDLEY. I think we can make you comfortable, Senator.

Senator MELCHER. I think you will. Now is there a training program for the inspectors in the BLM?

Mr. PENDLEY. I can't specifically answer that question, Senator. I can say we established the training program in the Minerals Management Service. It was ongoing, and it was an excellent program. I am sure that BLM, the Director at BLM, has continued that program.

I can't respond to that question. I'm sure the Director can.

Senator WALLOP. You could get us an answer?

Mr. PENDLEY. Yes, sir, Mr. Chairman, I will.

Senator MELCHER. The MMS will report to you if you are confirmed?

Mr. PENDLEY. Yes, that is correct.

Senator MELCHER. But the BLM will report to the Assistant Secretary for Land and Water?

Mr. PENDLEY. That is correct, Senator.

Senator MELCHER. So much for the leadership of the Secretary of the Interior on this. He is going to have to knock on two doors to find out what is going on, right?

Mr. PENDLEY. Assistant Secretary Garrey Carruthers and I talk freely with regard to the issues, and we will take them to the Secretary when they need resolution.

Senator MELCHER. Have you talked to him?

Mr. PENDLEY. Assistant Secretary Carruthers?

Senator MELCHER. Is Carruthers paying a lot of attention to how the regulations are drawn but you are not?

Mr. PENDLEY. Assistant Secretary Carruthers and I would bring up any issues that needed resolution between the two agencies. I think the point you are making, Senator, if I understand correctly, is that these two agencies will not know what the other is doing.

Senator MELCHER. Well, apparently you don't know what is going on in drafting the regulations.

Mr. PENDLEY. Senator, I am prepared to answer any specific question you may have with regard to specific aspects of the statute, and the regulations that we put in place.

I have not seen the draft language of the regulations that we would propose. The reason we want to propose them is to see what the public's concern is.

I am familiar with our efforts with regard to civil penalties, with regard to State audits and the cooperative audit activities with the States as well as the other provisions of the statute that you helped draft.

Senator MELCHER. Are you saying now that you are familiar with some of the regulations? In other words, that you have reviewed some of them?

Mr. PENDLEY. I reviewed the draft document as to the direction some of the regulations will take, but not the specific language of the regulations.

Senator MELCHER. That has been my problem since I have been here. It is difficult to find out what the regulations will do before they are finalized. In this case, I intend to find out what the regulations do and be satisfied that they carry out the intent of Congress before they are finalized.

Mr. PENDLEY. Senator, that is why we are going the route of the Federal Register and the regulations. We proposed them first. We put them in the Federal Register as proposed regulations.

Senator MELCHER. You failed on the first test by splitting up MMS and by separating the royalty accounting from the lease inspection, which is exactly contrary to what the bill intended and what the Linowes Commission recommended.

Mr. PENDLEY. Senator, we have continued to retain Chairman Linowes, David Linowes, as a consultant to the Department of the Interior in order to insure that as we move forward with our activities on royalty accounting that we fully implement his recommendations and achieve his objectives.

Senator MELCHER. You are retaining him?

Mr. PENDLEY. Yes, sir.

Senator MELCHER. You are paying him?
Mr. PENDLEY. Yes, sir.
Senator MELCHER. Well, that's interesting.
Mr. PENDLEY. On a per diem basis.
Senator MELCHER. On a per diem basis?
Mr. PENDLEY. Yes, sir.
Senator MELCHER. How much have you paid him?
Mr. PENDLEY. I don't know.
Senator MELCHER. Who decided to retain him?
Mr. PENDLEY. We have. We continued to retain him just as we did when he served as the chairman of the advisory committee, and we have continued to keep him on board in order that he might on occasion provide us additional information or guidance with regard to implementing his recommendations and on the anniversary date, on the anniversary date of the delivery of the Linowes Committee recommendations to the Department we conducted a year anniversary of the Linowes Commission at which time all members of the Commission returned to the Department of the Interior to review the activities and our implementation process.
Subsequent to that we retained—I don't know if retained is the proper word. We utilized his services on a per diem basis when he did participate to insure that we were implementing his recommendations fully.
Senator MELCHER. I don't recall since we passed that act being asked by you or anybody else at the Department what the intent was of the provisions of the act and why we drafted them that way.
Mr. PENDLEY. I don't understand your question, Senator.
Senator MELCHER. It wasn't a question yet.
Mr. PENDLEY. All right, sir.
Senator MELCHER. I don't recall ever being contacted, consulted, or approached in any way by the Department, asking for some clarification on what the intent of the legislation was. Did you direct any such inquiry to our office?
Mr. PENDLEY. Not to my knowledge, Senator.
Senator MELCHER. Did you direct any such inquiry to the staff of the Indian Affairs Committee?
Mr. PENDLEY. Not to my knowledge, Senator.
Senator MELCHER. Was anybody of the House of Representatives contacted that you know of?
Mr. PENDLEY. Staff individuals in the Minerals Management Service may have contacted those offices, but I have no knowledge of any such contact.
Senator MELCHER. Has the Minerals Management Service proposed separate regulations soon to be published in the Federal Register?
Mr. PENDLEY. Senator, I was advised last night that the regulations are nearing that stage when they will be, can be delivered to my office for my review, and if approved for my signature, could move forward to the Federal Register, yes, sir.
Senator MELCHER. You are going to review those whenever they get to your office?
Mr. PENDLEY. I am indeed.
Senator MELCHER. Is BLM, which has a separate set of regulations, going to ask you to review those, too?

Mr. PENDLEY. Ask me to review BLM's regulations?

Senator MELCHER. Yes.

Mr. PENDLEY. As they proceed through the Department clearance process I will no doubt have the opportunity to review them. I would indicate as well that at the BLM——

Senator MELCHER. At what point will you review them?

Mr. PENDLEY. At the time, as I understand it, Senator, at the time they are being reviewed by Assistant Secretary Carruthers.

Senator MELCHER. When does this very close working relationship between you and Carruthers take place on these regulations?

Mr. PENDLEY. We had a meeting I think just about 4 weeks ago, Senator, with regard to the regulations. We are concerned that there be a good time match between the Minerals Management Service and the BLM to insure that they went out pretty much on the same time schedule so as to be coordinated, and we discussed various aspects of them just superficially at that time.

I state that only to indicate that we have a working relationship and that we have had conversations regarding those issues.

Senator MELCHER. When would you review the substance of these regulations?

Mr. PENDLEY. When would I review the substance? When they come out of BLM, I guess out of BLM and are reviewed by Assistant Secretary Carruthers.

I would state, Senator, that at the working level of BLM and MMS there is a close working relationship between the two agencies and BLM officials work on MMS panels and MMS panels work on BLM panels to insure coordination between two aspects of that important process.

Senator MELCHER. That is interesting because after you split the two agencies up and started drafting these regulations, I talked to one of the former members of the quality assistance team who said that the training program for the inspectors was moved from MMS to BLM. Is that correct?

Mr. PENDLEY. Yes, sir.

Senator MELCHER. The fact that the team couldn't get the training material moved over from MMS to BLM, so that BLM could have the use of the video equipment, the manuals and so on says a lot for this so-called close relationship between the two agencies. If this relationship came about, it has evolved since that occurrence. It surprises me that there has been such difficulty in transferring the training manuals and the video equipment used in training to BLM if there is close coordination between the two agencies.

Mr. PENDLEY. That could be an incredible foulup and I can understand why you are so deeply concerned if something as insignificant as sharing training material cannot be taken care of, but I assure you that our desire is exactly what you sought to accomplish by passing this Royalty Management Act, and as I indicated, we are grateful to Congress for expeditiously moving on it. We want to put it in play. We want to end 20 years of mismanagement of that financial accounting system, and I think that as we review the record, I think we have done exactly that.

If we have failed in certain aspects of that, I hope you will be aggressive in informing us of those areas in which we may have been deficient so that we can correct them because you as one of

the lead key players in preparing that legislation are foremost in your knowledge of that issue. So we want to be responsive, and I think that by our publication of the regulations in draft state that we can be responsive to the public, to the Congress, to the State, to the Indians, to all of those who have deep concerns about fulfilling the goals and objectives of that statute.

Senator MELCHER. The latest draft of the regulations provides that royalty payments are due at the end of the second month during which the oil and gas is produced and sold, while an earlier draft provided that royalty payments will be due at the end of the first month. There must be some interest loss to the Federal Treasury as a result of this change, and if there is interest loss to the Federal Treasury there will be some interest loss to the States and some interest loss to the tribes also.

Do you know how much interest would be lost?

Mr. PENDLEY. Senator, I do not.

Senator MELCHER. What has been the existing practice in this respect?

Mr. PENDLEY. As I recall, Senator, the existing practice was to require at the end of the first month—one of the recommendations of the Linowes Commission was that a 60-day period be allowed to—those who produce natural gas, because of the difficulties that they encounter in collecting all the information with regard to the payments they receive and so forth, the Linowes Commission recommended that we wait until the end of the second month with regard to natural gas royalty holders.

As I recall, the inspiration for providing that universally was to make it coherent for everyone, for all royalty payers, not just natural gas, so there would not be a difference in provisions.

Senator WALLOP. Presumably some wells produce both, in which case you wouldn't want to have the oil royalty going out after 30 days and the gas royalty going out after 60.

Mr. PENDLEY. Thank you, Mr. Chairman. That would be correct.

Senator MELCHER. Some produce both, but since you have been doing it once a month, it is interesting that it was changed to 60 days. Perhaps you can answer in more detail or give the basis for that change.

Mr. PENDLEY. I will be glad to Senator, I would be glad to. I will indicate once again we did so in response to a specific recommendation of the Linowes Commission.

Senator MELCHER. The draft regulations provide for a $10 penalty for the monthly reports, if they are filed late.

One of the problems we had that was finally resolved in this committee was to curb the strong feeling of some within the Department that unless they had big penalties, the Secretary wouldn't be able to operate effectively. Now we find that this $10 fine seems a little bit strange. It seems that $10 fine on the monthly report doesn't have much effect as a penalty. Is there some reason for that that you know of, Mr. Pendley?

Mr. PENDLEY. As indicated, Senator, I have not reviewed the specifics of the draft regulations as you have, but when those regulations come to me, the Minerals Management Service people who prepare them will prepare a briefing for me and as a result of your question I will certainly be inspired to ask why the $10?

Are you suggesting, Senator, that perhaps it should be higher on the monthly report?

Senator MELCHER. Well, I don't think MMS or the Department of the Interior could process anything for $10. If you are going to assess a fine, I dare say it is going to cost MMS a great deal more than $10 to assess that fine.

Mr. PENDLEY. It seems reasonable, Senator.

Senator MELCHER. How many audits are being conducted now, so that we know whether we are collecting the proper amounts of royalties?

Mr. PENDLEY. Senator, as I recall the figure, we have eight cooperative audits. We have cooperative audits in progress with eight different States. The most successful has been with the chairman in the State of Wyoming which was a cooperative audit that we initiated in September of 1981. There I believe the State of Wyoming has collected approximately $15 million in underpayments as a result of that cooperative exercise.

Senator MELCHER. That is one audit. Is that a cooperative audit between MMS and the State?

Mr. PENDLEY. That is correct.

Senator MELCHER. I am asking though about other audits.

Mr. PENDLEY. We have a number of audits available to us. We are putting in place as a result of the Inspector General's recommendation what we call the residency audit program where Minerals Management Service personnel will be placed in residency at the location of some of the larger royalty payers on a continuing basis so they can be fully advised and informed as to the payment of royalty and to insure that the full payment takes place.

Senator MELCHER. One auditor may be auditing a company that operates in several different States?

Mr. PENDLEY. He would be auditing all the activities of that particular payor wherever they may take place, and yes would be the quick answer to your question.

Senator MELCHER. Is there any coordination of all this yet?

Mr. PENDLEY. Coordination, sir?

Senator MELCHER. Yes, by MMS.

Mr. PENDLEY. Of course.

Senator MELCHER. Pardon me?

Mr. PENDLEY. Is there coordination within MMS? Yes, there is.

Senator MELCHER. On March 31, at the advisory committee meeting in Denver, there seemed to be a sort of mass confusion regarding who was auditing what, and how it all dovetailed together. Do you think it has been coordinated since then?

Mr. PENDLEY. I do believe it has been. We had a more recent meeting than the March 31 meeting. We had a meeting in mid-June in Casper, Wyo., and the results of that meeting with the States and with our advisory panel which is made up of Indian tribal representatives, representatives of industry, individuals, and State representatives, the results from that have been laudatory with regard to our coordination of activities.

One of the concerns of the State—and I know Senator Wallop's Wyoming is concerned about this, as well as Colorado and other States—deals with the matter of the distribution of funds, and

some of the State auditors and individuals want to be involved in an audit of the manner in which those funds were distributed.

Our Inspector General has agreed to take on many of the State representatives to help them participate in that audit exercise and distribution of funds to insure that the States after the windfall profits tax were taken out and the other activities, the States got all the money that they were owed, so I think we have an excellent relationship with the States from everything that I have been able to see and all the comments that I received.

Senator MELCHER. One of the things that we found early on in the investigation of what was wrong with the inspection and collection of the royalties and distribution of royalties was the serious lack of manpower. That was compounded by not only lack of manpower, but by the lack of capability and experience and expertise of that manpower.

How many new inspectors did MMS find either with or without training and hire before the inspection function was turned over to BLM?

Mr. PENDLEY. Senator, I think your concern is justified. When we came into the Department of the Interior, I think there were something like 48 inspectors. There was not only unfortunately a lack of numbers of people to do the work, but I think really the problem was lack of will within the Department. We more than doubled the number of inspectors. The last number that I recall was something like 110 and 115 inspectors.

Senator MELCHER. They were at MMS?

Mr. PENDLEY. MMS.

Senator Melcher; You transferred some of them to BLM?

Mr. PENDLEY. That is correct, sir.

Senator MELCHER. How many of them did you transfer?

Mr. PENDLEY. We transferred all of them.

Senator MELCHER. You are talking about onshore inspectors?

Mr. PENDLEY. Yes, I am.

Senator MELCHER. Offshore inspectors have been transferred or not?

Mr. PENDLEY. No. The offshore is exclusively within Minerals Management Service.

Senator MELCHER. Inspectors of offshore remain under the Minerals Management Service?

Mr. PENDLEY. The prelease and postlease functions with regard to offshore remain within the Minerals Management Service. It has two main responsibilities. One is the entire offshore program.

The unique thing about the offshore program, as you know from dealing with the OCS Lands Act of 1953, it was never bifurcated into a prelease and postlease function. It was always one function, so we combined that within—I misspoke, Senator. It was bifurcated in the Conservation Division. We consolidated it within the Minerals Management Service, but we felt we needed to leave it within the Minerals Management Service along with royalty functions because of the numerous land management responsibilities that the BLM has, as you know—grazing and other activities. BLM has more than just a mineral leasing function, and we thought that the coordination would be better within MMS than BLM.

The number that the Linowes Commission talked about, the 48 inspectors, were 48 inspectors within the onshore program.

Senator MELCHER. And the 115 you talk about were onshore?

Mr. PENDLEY. That is correct, Senator.

Senator MELCHER. How many has BLM added to that?

Mr. PENDLEY. I don't know the number.

Senator MELCHER. But when you transferred these inspectors over there to BLM, at that point how many experienced inspectors had you brought in? Let me explain what I mean by experienced. An experienced inspector is somebody who has been in the oil patch working for at least half a dozen years and who knows how an oil field works.

Mr. PENDLEY. Senator, I would be unable to answer your question specifically about the length of experience of the various inspectors, in the qualifications of those 48 inspectors we had when we came in.

Senator MELCHER. You couldn't do it on the 48, but I didn't expect you to because you probably weren't familiar with them. But the difference between 48 and 115, that is 67.

Mr. PENDLEY. What was their range of qualifications? Senator, I think that may have already been supplied. I don't have any personal knowledge of that information.

Senator MELCHER. Do you know whether any of them were very experienced, at least half a dozen years of experience in the oil field?

Mr. PENDLEY. I really don't have that information. The hiring was all done in the field and the training was in the field. I wouldn't be able to be responsive to the various qualifications of the individuals who were employed.

Senator MELCHER. How many from the training program that MMS had in place?

Mr. PENDLEY. I don't understand the question, Senator.

Senator MELCHER. Of the people that MMS had in the training program, how many of them were experienced? How many of them entered the training program with some experience?

Mr. PENDLEY. Once again, I could not respond to that question. I don't know the various qualifications of the individuals who were subjected to training.

Senator MELCHER. Was a serious recruiting program ever instituted?

Mr. PENDLEY. Yes, there was. I think any time you double and more than double the number of inspectors in a program, I think that is a significant and a serious exercise.

Senator MELCHER. I wouldn't call it that at all. You can put out a post, whatever you call them, asking for somebody to apply for a job, and I wouldn't call that very serious unless you knew what the qualifications of the people were that were answering the inquiry or the advertising for employment.

Mr. PENDLEY. I am sure those people who did the hiring in the field throughout our offices and throughout the West employed the most qualified individuals who applied for the jobs.

Senator MELCHER. You don't know what they set up for qualifications?

Mr. PENDLEY. No, I do not, Senator.

Senator MELCHER. Well, I don't think it was very serious then. I think that is the point. It wasn't serious. You wouldn't know, would you not?

Mr. PENDLEY. I wouldn't know what?

Senator MELCHER. Would you know what the required qualifications were for the inspectors? Mr. Pendley. I don't know why there would be any reason for me to know what the specific requirements are for a job to be an inspector in Rock Springs. No, sir, I do not.

Senator MELCHER. That is what I was afraid of. Whose responsibility would that be? The Secretary's?

Mr. PENDLEY. No, sir.

Senator MELCHER. Whose would it be then?

Mr. PENDLEY. Well, the professional, the career professionals in the Department of the Interior who have training and background in that area.

Senator MELCHER. In the USGS?

Mr. PENDLEY. Former employees of the U.S. Geological Survey, Conservation Division.

Senator MELCHER. All my information is that there weren't hardly any qualifications set, that the recruitment program was far less than serious, and you seem to be saying you have no knowledge of it.

Mr. PENDLEY. We were serious about it. We were serious about putting effort into the program. We are serious about producing oil and we are serious about collecting royalties. I personally appeared at the three training sessions that were conducted during the time that I was Acting Director of the Minerals Management Service to speak before the trainees to advise them how serious the program was, how important it was to us, and how important it was to the Secretary, and I think that that is an indication of my commitment to a good program.

Senator MELCHER. What were they going to pay them then?

Mr. PENDLEY. What were they going to pay them?

Senator MELCHER. Yes, these trainees.

Mr. PENDLEY. Senator, I don't know what they were going to pay them.

Senator MELCHER. That is one of the problems, too. One of the points that we drew to the attention of the Department of the Interior was that you can't hire experience for nothing. If you try to hire them at a level of $10,000, you are probably going to get what you pay for. If you try to hire them at $12,000, you are still going to get what you pay for. You can't hire inspectors with experience for anything less than getting up to around $17,000, $18,000, maybe $20,000.

If you recall, Mr. Pendley, one of the problems we had was that there weren't experienced people being added as these numbers were being built up. Forty-eight is low enough; 115 isn't much different when you consider how many leases there are out there and how many different wells that they had to inspect. I think we have made it very clear to you and others in the Department that you are probably going to have to ask for more money or going to have to arrange in the budget for a sufficient amount to hire the kind of people that you are going to have to have.

Mr. PENDLEY. I think that is an important concern. I do know we made some questions of the Office of Personnel Management at the time I was in the Minerals Management Service to increase the salaries that were paid to these petroleum technicians.

Senator MELCHER. You don't recall what it was?

Mr. PENDLEY. No, I do not. I do know that they were not paid at a high enough level, as you have indicated, to attract some kind of people that we wanted, so we sought for an increase.

Senator, you are speaking to an issue that is a concern throughout Government, the fact that the private sector can attract qualified governmental individuals and employees at a much higher level of salary, and that is one of the problems that we face throughout Government, but we do the best we can. We do believe that there are a lot of benefits that accrue to Government service, and we have a dedicated professional seeking to enforce the law as the Congress has sought.

Senator MELCHER. Are any of these people transferred over from MMS to BLM going to have to do other duties connected with the responsibilities of the Bureau of Land Management?

Mr. PENDLEY. Other responsibilities? Senator, I wouldn't be able to respond to that. I would imagine they would continue to serve as inspectors because that is their training and that is one of the key responsibilities.

I should add that the Bureau of Land Management had certain inspection responsibilities as well. It was not just Minerals Management Service personnel who appeared on the lease site to inspect the lease site, but it was BLM personnel as well, and Forest Service people to inspect with regard to any surface owner, surface occupancy stipulations that may have existed and so forth. So we had two sets of inspection teams going out there, so when you add in the additional BLM inspectors who were performing those inspections on the site, I think we are augmenting the number of inspectors available for those lease inspection requirements.

Senator MELCHER. One of the things we found was that the concerns weren't over the quality of the lease inspections that took place prior to production. For example, there was no concern regarding the on-site environmental assessment made prior to drilling. The questions arose after the well was in production, that the proper amount of royalties was being collected. That was the issue.

Mr. PENDLEY. You are precisely correct, Senator, but my point is that the BLM continued even after the post-lease phase, BLM continued to make the inspectors available to go out into the site and my only point, Senator, is that with this combination of BLM and the former MMS employees, I think we now have an augmented force that can go out there and perform both the pre-lease and post-lease responsibility inspections.

Senator MELCHER. Well, we are told now by inspectors that since the changeover from MMS to BLM, that they are expected to do more than just go out and inspect operating wells. They are expected to do more functions, and that detracts from their primary function, the inspection of operating wells.

The Inspector General for the Department of the Interior stated in the latter part of April this year that for each dollar spent on

audit resources, we identified approximately $7 of potential additional royalties.

Do you think he was overstating the case?

Mr. PENDLEY. I would not disagree with the findings of the Inspector General.

Senator MELCHER. You think he is probably correct?

Mr. PENDLEY. If that is what his conclusions were, then I imagine that is what they were, if that is what he stated them to be. I have no reason to disagree.

Senator MELCHER. Well, how much is the Department spending on auditing the resources right now?

Mr. PENDLEY. Senator, I would have to provide that information to the record with regard to the exact amount we are spending.

We do have a series of audits—the cooperative audits, and I indicated the residency audit program, the ongoing audit program, and of course, the Inspector General has his audit program which the Congress is funding, so-called look- back audits, as you know.

Senator MELCHER. In March of this year Secretary Watt decided that Kuwait is not a reciprocal nation for purposes of the Mineral Leasing Act of 1920.

What has happened since then?

Mr. PENDLEY. To implement the Secretary's decision?

Senator MELCHER. Yes.

Mr. PENDLEY. Senator, I cannot be responsive to that. I was not involved in that decisionmaking process and the responsibility for that falls under the Assistant Secretary for Land and Water, Garrey Carruthers, in the Bureau of Land Management.

I would be glad to speak to Assistant Secretary Carruthers and provide responses to the questions you may have on that subject, Senator.

Senator MELCHER. You say Carruthers is going to be responsible because of the leases involved, is that it?

Mr. PENDLEY. Sir?

Senator MELCHER. Carruthers will be responsible because of the leases involved and you will not have any responsibility with regard to this?

Mr. PENDLEY. Yes. Those provisions as you are aware are under the Mineral Leasing Act of 1920 and the Mineral Leasing Act of 1920 is administered currently by the Bureau of Land Management, and Assistant Secretary Garrey Carruthers.

Senator MELCHER. Well, royalties come under the 1920 act.

Mr. PENDLEY. Well, there are no royalties if Kuwait is a nonreciprocal nation.

Senator MELCHER. Yes. You will know at the proper time if there is any oil developed?

Mr. PENDLEY. Sir?

Senator MELCHER. You will have the responsibility if there is any oil developed?

Mr. PENDLEY. Yes, indeed; I will be deeply involved, Senator.

Senator MELCHER. At that point; I wish that you might pass on to Carruthers and to the Secretary—is the Secretary in this morning?

Mr. PENDLEY. Not until early this afternoon; he is testifying at this hour before the Senate Environment and Public Works Subcommittee.

Senator MELCHER. If you have a chance, just pass on to him that we submitted these questions to Carruthers on May 23. We would still like to have an answer. Carruthers said he would pass on the questions to the Secretary.

Mr. PENDLEY. I will stop by Assistant Secretary Carruthers' office on the way back, Senator.

Senator MELCHER. Now I am going to turn to issues related to the Office of Surface Mining.

The Office of Surface Mining I am advised is under court order to take enforcement action in 1,700 cases in which coal operators have ignored cessation orders due to illegal practices and second, to assess and make all reasonable efforts to collect $44 million in unpaid fines.

What is OSM doing right now to remedy this situation?

Mr. PENDLEY. Senator, what you are speaking of is really a rather reprehensible case that existed when Director Harris came to the Department of the Interior because the previous administration did not believe in enforcing that aspect of the law, so we were confronted with almost the size of backlog of fines that you speak of, and we established a program to go after that, and as you know, we were sued by a group that did not think we were moving fast enough and frankly, was disturbed with the previous administration's lack of enforcement.

We have established a program to move after them, those violators, those people who have not abated the violations of the statute. We have requested additional funding for our Office of the Solicitor so that we would have the staff available to go after those individuals who have failed to obey.

In addition, we are in a cooperative exercise with State government to insure that we know who is guilty of these violations so that we can review those people who come in and apply for an additional operating permit perhaps on another mine, to insure that we can deny to those who propose the opportunity to move forward until they have abated the previous activity, so we are moving aggressively after those violations in accordance with the court order and in fulfillment of them.

Senator MELCHER. Well, what has been done? I mean you say you are moving. What has actually been done?

Mr. PENDLEY. Senator, we have established a program to prevent those——

Senator MELCHER. No. I understand that. You have established this program that says that they need another permit or something. Are you are saying that you are going to collect fines?

Mr. PENDLEY. That is correct.

Senator MELCHER. Have you collected any?

Mr. PENDLEY. Yes, we have. I don't have precise numbers. I cannot give you precise numbers. I can supply them for the record on the moneys that we have collected.

Senator MELCHER. That would be helpful.

Mr. PENDLEY. Thank you. I will.

Senator MELCHER. When you referred to a State cooperative program, in talking to the State, I assume you meant with the State that is under the cooperative program with OSM?

Mr. PENDLEY. And States that have primacy, yes, sir.

Senator MELCHER. Now as I recall, the Surface Mining and Reclamation Act provided you with more teeth than a bulldog to enforce the law. You are waiting for a State like Montana to enforce collection of the fine. Would OSM have a problem with enforcement although we have an operating agreement with the State.

Mr. PENDLEY. I don't think I understand your question.

Senator MELCHER. What was meant by the statement that you have been discussing enforcement with the States? I assume you meant that have been dealing with States that have a cooperative program with authority to approve additional mining permits.

Mr. PENDLEY. Let me attempt to be a little more precise. When an operator would come into the State agency that has primacy for administering the act and would apply for additional operating permits with another facility—for example, we would have computer materials available to determine that if in fact this operator was guilty of failure to obey in another instance so that the State agency would be able to put up this stop sign, hold it off until he took care of the previous violation and took care of his fine, and traditionally that was something that did not exist before. The operator would come in and he might have been guilty of other violations in other areas, and we wouldn't know.

We now have the facilities to allow us to understand that and to take action.

Senator MELCHER. Were some of the 1,700 cases in which coal operators had ignored cessation orders due to illegal practices, in States with primacy?

Mr. PENDLEY. All of our States currently have primacy, Senator. I think out of 10,000 mines, only 4 are under a Federal program, so all 25 States who have coal mining have primacy, so yes.

Senator MELCHER. Have you determined with the imput of the States what they must do? I know that many of these permits are granted by the State and then OSM is notified.

Mr. PENDLEY. We have been very aggressive in our oversight responsibility, and Director Harris has been speaking with the Governors of the States that may have a problem as well as all the States in insuring that they fully implement the statute.

Senator, we have had some successes with regard to the collection of those fines, and in response to your question I will be glad to provide you the numbers. They are in the millions of dollars that we have collected already. I think you will be proud of the program.

Senator MELCHER. What do you do with repeat offenders who pay the fine and continue to violate the surface-mining law? For instance, what kind of penalty do you assess an operator for committing the same violation?

Mr. PENDLEY. Senator, I don't know what particular tools are available to the Office of Surface Mining for the repeat offender, if any, but I could respond to that question in writing if you prefer.

Senator MELCHER. As I recall the act, when the State wasn't enforcing its program correctly, the Department could, through the Office of Surface Mining, cancel the State's authority.

Mr. PENDLEY. That is correct, Senator, and we are willing to do that. There is a preliminary procedure there as you may recall, the so-called 733 process whereby official communication from the Department of Interior and the Office of Surface Mining would advise the State or the Governor that there are serious deficiencies that exist in the State with regard to these programs that must be remedied. Subsequently a hearing or a bilateral discussion would ensue, and if the State, as you point out, Senator, the State was unable to or unwilling to remedy sufficiently, then indeed primacy could be removed.

Senator MELCHER. So far you haven't used any 733's?

Mr. PENDLEY. We have used the 733 process in three instances.

Senator MELCHER. Three instances; do you recall which States?

Mr. PENDLEY. The States of Tennessee, Kansas, and Oklahoma; we have had negotiations with the State of Utah because of our concern out there, so I think it demonstrates our willingness to be aggressive in oversight.

I would add, Senator, that one of the deficiencies of removing—and we are not reluctant for a moment to remove the program because it is important that we adhere to the law—but one of the problems with removing the program is the State will not receive AML moneys if they lose primacy, and there are so many abandoned mine lands in this country that need attention that if we are to do that we would like the State to keep the primacy so we can get that money to the State so it can reclaim those orphan lands that the Congress is so intent about reclaiming to improve the environment.

Senator MELCHER. Now in reference to the 1,700 cases that I mentioned previously, is it true there are an additional 1,000 mines for which no enforcement has taken place?

Mr. PENDLEY. No, Senator. I can't imagine that we are not enforcing the law with regard to any mine in this country. If a mine operator should be in violation, we are taking the action when we should be taking the action that the statute demands.

Senator MELCHER. I would like to have some information from OSM on whether that is the case.

Mr. PENDLEY. I will be glad to be responsive, Senator.

Senator MELCHER. And also what you would recommend be done about it.

Mr. PENDLEY. All right, sir.

Senator MELCHER. The AML fees which go toward reclaiming the land in lands mined prior to enactment of the act there are some States that have had difficulty in enforcing collection of those fees.

Could you advise us what the Federal Government's role should be in enforcing those collections?

Mr. PENDLEY. I am not familiar with the problem, Senator, that you cite. There have been in the past some difficulties and some delays in enforcing the collection of the AML funds, but I believe that to be a Federal responsibility and I believe that we have fulfilled our responsibility with collecting all the funds.

The funds are collected as I understand it by the Federal Government and then are distributed by the Federal Government to the States under the AML program.

Senator MELCHER. I am told Virginia has a problem.

Mr. PENDLEY. I am not aware of any problem that they may have. I will check with Director Harris and respond to you, Senator.

Senator MELCHER. OK. I am told that Virginia, for instance, cannot deny a mine permit based on deliquent AML accounts. If a State has a problem, I would assume they have already informed OSM.

Mr. PENDLEY. I will look into that and respond to you.

Senator MELCHER. I wonder if the other States have a similar problem to that of Virginia. I am going to be very interested in your responses, Mr. Pendley, I want to assure you however, that I am most interested in the final regulations to the Royalty Management Act. I am most interested that they carry out the intent of that act in coordinating the inspection, collection, and auditing of the royalties, and I am not going to be satisfied unless they are done together. I don't care whether that requires redrafting the entire set of regulations and reshuffling the reorganization plan you put into effect.

I am not going to be satisfied until the regulations reflect the intent of the act. I think shoving the MMS inspection over into BLM, blatantly disgards the mandate of the legislation. I hope to get that point corrected this year in this Congress, and I plan to do everything that is necessary to get this coordination accomplished.

I don't know how we could have been any more clear after innumerable hours of consultation with numerous people from the Department of the Interior on what we thought was wrong and what we thought should be done; then to find that the exact opposite was done after the act was passed despite the fact that we worked closely with the Department when drafting the bill is a dissapointment. I hope Mr. Pendley, we will be in agreement before any regulations are finalized.

Mr. PENDLEY. Senator, I will assure you we will be totally coordinated within the Department of the Interior.

Senator MELCHER. What I mean by "we" is me and the people that worked on that bill, and the Commission that made those investigations to determine how bad the situation was. I don't mean we in the Department of the Interior or we as a portion of this committee or we as a portion of the committee staff. I mean that we includes me.

Mr. PENDLEY. I understand that, Senator. We are committed to implementing the law as it was passed by the Congress. We will fully implement it in accordance with the wishes of the Congress and as the Congress mandated.

Senator MELCHER. Well, that hasn't been too clear so far. There must have been some confusion down at the Department as to what the Congress intended when they split the MMS inspectors out of MMS and assigned them to the BLM.

Thank you very much. Thank you, Mr. Chairman.

Mr. PENDLEY. Thank you, Senator.

Senator WALLOP. Thank you, Senator Melcher, and Mr. Pendley, I have no further questions. I wish to offer you my congratulations on your nomination and hope to offer them on your confirmation in the near future. Thank you.

Mr. PENDLEY. Thank you, Mr. Chairman, and I will be very responsive to questions that have been provided for the record.

Senator WALLOP. I would say again that any written questions by other members of the committee should be submitted as soon as possible, and preferably by the close of business today, and the committee stands adjourned.

[Whereupon, at 11:40 a.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Biography and Informational Statement of William P. Pendley

UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Pendley (LAST) William (FIRST) Perry (OTHER)

Position to which nominated: Department of the Interior Assistant Secretary-Energy & Minerals

Date of nomination: June 13, 1983

Date of birth: 03 (DAY) 04 (MONTH) 45 (YEAR) Place of birth: Cheyenne, Wyoming

Marital status: Married Full name of spouse: Elisabeth Young Jones Pendley

Name and ages of children: William Perry - 2 yrs.
Luke Taylor - 1 month

Education:

Institution	Dates attended	Degrees received	Dates of degrees
George Washington Univ. Washington, DC	1963-1967	B.A.	1967
George Washington Univ. Washington, DC	1967-1968	M.A.	1968
Wyoming Law School Laramie, WY	1973-1976	J.D.	1976

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

Research Asst., Sen. Cliff Hansen, U.S. Senate, Washington, DC, 6/68-8/68
Resident Assistant, Dean of Men, University of Wyoming, Laramie, WY, Supervised floor activities, assisted dean, 8/68-9/68.
U.S. Marine Corps., Lt/Capt., 3/31/69-8/6/73 SEE EXPLANATION OF MILITARY DUTY.
Intern, Governor's Planning Committee on Criminal Administration, Cheyenne, WY, 5/74-8/74. Interviewed law enforcement officials and judges and others involved in judicial system to compile information concerning crime and judicial system throughout Wyoming.
Legal Intern, Redle, Yonkee and Arney, Attorneys-at-law, Sheridan, WY, 5/75-8/75. Researched and prepared briefs on: Secured Transactions, Easements, Close Corporations, Guest Statute Constitutionality, Interspousal Immunity, Partition Actions, Materialism Liens, and other issues; Assisted in investigation in preparation for administrative hearing; Prepared and presented oral arguments.
SEE ATTACHED STATEMENT

1

25-295 O—83——5

CONTINUATION OF EMPLOYMENT HISTORY - WILLIAM P. PENDLEY

Legislative Assistant, Sen. Cliff Hansen, Washington, DC, 8/76-1/78, Researched issues including western water and reclamation law, appropriations, and environmental legislation; prepared speeches, remarks, and legislative correspondence.

Minority Counsel, Mines and Mining Subcommittee, Interior and Insular Affairs Committee, U.S. House of Representatives, Washington, DC, 1/78-3/81, Counsel to Republican Members of Congress on matters relating to the subcommittee, including statutes, legislation, regulations and issues regarding minerals and mining and public land policy and law. Prepared instructional and decisional memoranda, statements, floor debate, and committee and conference reports.

Deputy Assistant Secretary for Energy and Minerals, Department of the Interior, Washington, DC, 3/81-Present. Oversight of 4 bureaus; participation in Cabinet Council Working Groups; testimony before Congress; public appearances and media contacts as official representative of the Department. All activity was related to public lands policies and laws, energy and mineral issues and Outer Continental Shelf activities, including development of initiatives for recently designated Exclusive Economic Zone. Additionally, as first Acting Director of the Minerals Management Service (1/82-4/82) implemented major reorganization and streamlining of operations of royalty accounting program.

Employment record—Continued

Military service: Enter all military service if not included above: service, dates, rank, type of discharge.

U.S. Marine Corps - 3/31/69-8/73 - Captain - Honorable Discharge

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Scholarship, Geo. Washington Univ.; Scottish Rite Fellow of Geo. Washington Univ.; Paul Stock Scholarship and Water Resource Research Institute Fellowship at College of Law; Omicron Delta Epsilon, Economics Honorary Society at G.W.U.; Senior Editor, Law Review, College of Law; Editor-in-chief, Wyoming Legislative Research Group, College of Law; Top Marine Officer, Naval Flight School, U.S. Navy, Pensacola, FL; Top Marine Officer, Naval Justice School, Newport, RI; Who's Who in America, 1983.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Cheyenne Masonic Lodge #1 Cheyenne, WY	None	1966 - Present
Wyoming Consistory (Masonic Cheyenne, WY	None	1968 - Present
Wyoming Bar Association	None	1976 - Present
Interior Department Recreation Association	None	1981 - Present
National Capitol YMCA Washington, DC	None	1978 - 1981

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written.

"Torts--the Dangerous Psychiatric Patient--The Doctor's Duty to Warn," Land & Water Law Review, (1975)

"Comment, Allocating Buried Treasure: Federal Litigation Involving Interstate Ground Water," Land & Water Law Review, (1975)

Co-author, "Clean Air Act Amendments of 1977: A Selective Legislative Analysis," Land & Water Law Review, (1978)

"The Argument: The U.S. Will Need Seabed Minerals," Oceanus Magazine, (1982)

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet)

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

No, since I am currently employed by the Department of the Interior.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I have no such plans.

3. Has anybody made you a commitment to a job after you leave government?

No.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Not applicable.

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

No such arrangements or agreements exist.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None.

BIOGRAPHY OF WILLIAM P. PENDLEY

EMPLOYMENT

Deputy Assistant Secretary — March 1981 - Present
of the Interior for Energy and Minerals
Washington, DC

Oversight of 4 bureaus; participation in Cabinet Council Working Groups; testimony before Congress; public appearances and media contacts as official representative of the Department. All activity is related to public lands policies and laws, energy and mineral issues and Outer Continental Shelf activities, including development of initiatives for recently designated Exclusive Economic Zone. Additionally, as first Acting Director of the Minerals Management Service (1/82-4/82) implemented major reorganization and streamlining of operations of royalty accounting program.

Minority Counsel — January 1978-March 1981
Mines and Mining Subcommittee
Interior and Insular Affairs Committee
U.S. House of Representatives

Counsel to Republican members of Congress on matters relating to the subcommittee, including statutes, legislation, regulations and issues regarding minerals and mining and public land policy and law. Prepared instructional and decisional memoranda, statements, floor debate and committee and conference reports.

Legislative Assistant — August 1976-January 1978
U.S. Senator Clifford P. Hansen
United States Senate

Researched issues inluding western water and reclamation law, appropriations, and environmental legislation; prepared speeches, remarks, and legislative correspondence.

Captain — March 1969-August 1973
United States Marine Corps

As 2nd lieutenant, completed infantry training, Naval Flight Officer training and advanced electronic warfare instruction. Served as navigator aboard EA-6A and RF-4B, doing photo-reconnaissance, during tours of duty in Japan and the Philippines. Following legal training at the Naval Justice School, served as squadron legal officer, directly responsible to Commanding Officer.

EDUCATION

J.D., College of Law, University of Wyoming, Laramie, Wyoming, May 1976

M.A., Public Affairs, George Washington University, Washington, D.C., August 1968

B.A., Public Affairs, George Washington University, Washington, D.C., May 1967

PERSONAL

Born on April 3, 1945 in Cheyenne, Wyoming. Graduated from East High School in Cheyenne in 1963. Legal residence is Cheyenne, Wyoming. Health is excellent. Married Elisabeth Young Jones on November 8, 1969. Two children.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy.

I have engaged in no lobbying activity over the past 10 years.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

The code of ethics/rules of conduct for an employee of the Department of the Interior have been fully explained to me. I am not aware of any potential conflict of interest. If a conflict should arise, I will fully comply with appropriate conflict of interest laws. SEE ATTACHED STATEMENT.

6. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them.

The code of ethics/rules of conduct for an employee of the Department of the Interior have been fully explained to me. I am not aware of any potential conflict of interest. If a conflict should arise, I will fully comply with appropriate conflict of interest laws. SEE ATTACHED STATEMENT.

JUN 1 1983

Memorandum

To: David R. Scott
Acting Director, Office of Government Ethics

From: Designated Agency Ethics Official

Subject: Opinion Memorandum for William P. Pendley,
U.S. Department of the Interior

The Financial Disclosure Report (SF-278) filed and signed by Mr. Pendley on May 23, 1983 has been reviewed in accordance with the provisions set forth in 5 C.F.R. 734.604(a) and 43 C.F.R. 20.735-27.

Based on the information disclosed, I have determined that none of the financial interests reported by Mr. Pendley violate or appear to violate any conflict of interest provision that governs the position Assistant Secretary for Energy and Minerals for which Mr. Pendley may be nominated.

Richard R. Hite

cc:
Mr. Pendley

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

Membership in Enterprise Partnership #1 (a real estate partnership) allows me to participate in any proceeds of the sale of rental houses in Baltimore, Maryland.

3. Are any assets pledged? (Add schedule.)

No.

4. Are you currently a party to any legal action?

No.

5. Have you ever declared bankruptcy?

No.

6. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes.

7. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No.

United States of America
Office of Government Ethics

Office of Personnel Management
Washington, D.C. 20415

JUN 20 1983

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by William P. Pendley, who has been nominated by President Reagan for the position of Assistant Secretary for Energy and Minerals of the Department of the Interior.

We have reviewed the report and have also obtained advice from the Department of the Interior concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Based thereon, we believe that Mr. Pendley is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David R. Scott
Acting Director

Enclosure

FINANCIAL DISCLOSURE REPORT

☐ Incumbent	☒ Nominee, Reappointee, or Candidate ☐ Termination Report	NOTE: All schedules must be filed. Enter "None" in response to schedules where appropriate.	Reporting Status (Check)
			Date of Filing (Month, Day, Year): Received 5-24-83
Reporting Individual's Name	Last Name: PERDLEY	First Name and Middle Initial: WILLIAM P.	
Position for Which Filing	Title of Position: ASSISTANT SECRETARY--ENERGY & MINERALS	Department or Agency (If Applicable): U.S. DEPARTMENT OF THE INTERIOR	Date of Appointment, Candidacy, Election or Nomination (Mo., Day, Yr.):	Termination Date (If Applicable) (Month, Day, Year):
Location of Present Office	Address (Number, Street, City, State and Zip Code): 18th & C Streets, N.W., Washington, D.C. 20240		Room Number: 6651	Telephone No. (Include Area Code): 202-343-4323
Presidential Nominees Subject to U.S. Senate Confirmation	Name of Congressional Committee Considering Nomination: Senate Energy and Natural Resources Committee		Do You Intend to Request Termination Report Within One Year? ☐ Yes ☒ No	
Positions Held With the Federal Government During the Preceding Calendar Year Which Are Not Now Held	Title of Position(s) and Date(s) Held: Deputy Assistant Secretary for Energy and Minerals, U.S. Department of the Interior			

23 May 1983

MAY 31, 1983

6/17/83

(Check box if comments are continued on the Reverse side) ☐

	Yes	No
Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?		X
If "yes", have you reported the income from the trust?		
If "yes", have you reported the assets of the trust?		
If "yes", is this trust an "excepted" trust?		
or "qualified" trust?		

	Yes	No
...liabilities		X
...responsibility ... interest ... derived from your income assets, ... any financial or economic benefit ... from them; and		
You do not have knowledge as to the composition of such interest or liabilities.		

Page Number ➤ | Schedule A

Reporting Individual's Name: Pendley, William P.

Agency Use Only

Date of Filing (Month, Day, Year)

Spouse (S) or Dependent Child (DC)	Identification	Income: Type of Income (✓)							Income: Category of Amount or Value (✓)										Interests in Property: Valuation of Assets (✓)							
		Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify)	None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount / Only if "Other" Specified	Date (Mo., Day, Yr.) / Only if Honoraria	Valuation Method	$1,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	$250,001-$500,000	$500,001-$1,000,000	Over $1,000,000
S	Federal Energy Regulatory Commission							X (Salary)						X			$20,498.00									
*	First Virginia Bank Account			X						X									H	X						
S	FERC Credit Union			X					X										Less than $1,000							
	Navy Federal Credit Union Account			X					X										Less than $1,000							
	Federal Credit Union (F.E. Warren Air Force Base)			X					X										Less than $1,000							
*	8182 Community Drive, Manassas, VA		X									X							A			X				
*	8127 Community Drive, Manassas, VA		X									X							A			X				
	Eleven point 57% share of partnership with following properties: 1111 Woodyear, 1334 N. Fremont, 1526 Druid Hill, 2036 E. Fayette, Baltimore MD (residential property)		X							X									C	X						

*Property held in joint tenancy with spouse

Rev. 8/87

PURCHASES, SALES, AND EXCHANGES

This schedule is applicable only in the case of annual and termination reports.

Page Number ► | Schedule B

Reporting Individual's Name: Pendley, William P.

Agency Use Only

Date of Filing (Month, Day, Year)

Report Applicable Transactions, Even if Also Reported on Schedule A

S or DC	Identification of Property (real and personal)	Type of Transaction			Date (Month, Day, Year)		Category of Amount or Value ( )					
		Purchase	Sale	Exchange	Purchase	Sale or Exchange	$1,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	$250,001 to $500,000	Over $500,000
	None.											

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...mination reports.

Number ➤	Schedule C
Reporting Individual's Name: Pendley, William P.	
Agency Use Only	
Date of Filing (Month, Day, Year)	

I. Lodging, Transportation, Food and Entertainment—*List each source totaling $250 or more in value*

Sched.	Source (Name and Address)	Brief Description	Value
	None.		

II—All Other Gifts—*List each source totaling $100 or more in value*

Sched.	Source (Name and Address)	Brief Description	Value
	None.		

III. Reimbursements—*List each source totaling $250 or more in value*

Sched.	Source (Name and Address)	Brief Description	Value
	None.		

SF 278 Executive Personnel (Rev. Oct. 1978)

LIABILITIES

This schedule, except as noted for the third section, is applicable in the case of all reporting individuals.

Reporting Individual's Name: Pendley, William P.

Agency Use Only — Date of Filing (Month, Day, Year)

S or DC	Name and Address of Creditor	Type of Liability (e.g., promissory note, margin account) Give date, interest rate and, if applicable, term		Category of Amount of Value: $10,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
1/*	J.I. Kislak Mortg. Serv. Corp., P.O. 8500, K-175 Phila., PA 19178 Capt. Ron H. Parker, 5530 Beach Ridge Dr., Fairfax, VA 22030	--1st Trust: 8½% FHA (25 years) --2nd Trust: 8 % 5 years (March 1979)	$32,000 $12,000		X			
2/*	Percy Wilson Mortg. & Fin. Corp., P.O. #00, Chicago, IL 60690 Dr. & Mrs. Paul Poppen, 3317 Mantua Dr., Fairfax, VA 22031	--1st Trust: 9 % FHA (25 years) --2nd Trust: 8 % 5 years (May 1979)	$31,000 $14,000	X		X		
3/*	Wanda Fossler, 603 Olesmont Rd., Balt., MD Albert Lipscomb, ATL Co., 5846 Berkshire Ct., Alexandria, VA & Stanley Engle, Suite 26, 7 Church Lane, Pikesville, MD 21208	--1st Trust: 10-12% for 10 years --2nd Trust: 12% 5 years (Feb. 1980)	$11,000 $28,000	X		X		

*1/ Property located at 8182 Community Drive, Manassas, VA; *2/ Property located at 8127 Community Drive, Manassas, Va; *3/ Residential property located at 1334 N. Freemont, 1111 Woodyear, 1526 Druid Hill Ave., [illegible] Fayette, Baltimore, MD (11.67% partner/trustee) [illegible]

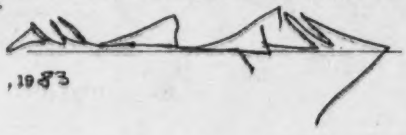
Name and Address of Organization	Position Held			
None.				

None.			

AFFIDAVIT

District of Columbia) ss

William P. Pendley , being duly sworn, hereby states that he/~~she~~ has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.



Subscribe and sworn before me this 20th day of June , 1983

Richard R Lee
Notary Public

My commission expires April 14, 1987

U.S. GOVERNMENT PRINTING OFFICE

APPENDIX II

Responses to Additional Questions

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

July 13, 1983

Honorable James A. McClure
Chairman, Energy and Natural
Resources Committee
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed please find my responses to questions posed to me in regard to my nomination.

Information included in Part A is in response to questions posed by Members of the Committee during the course of the hearing.

Information included in Part B is in response to "Questions Submitted to the Record."

Sincerely,

William P. Pendley

Enclosure

Part A

Q.1. a. Has the Bureau of Land Management (BLM) continued the training program for Petroleum Engineering Technicians (PET's) established by the Minerals Management Service (MMS)?

b. What is the current number of BLM inspectors (PET's)?

c. What was the number of PET's in the MMS at the time of the merger with BLM?

A.1. I have been advised by the Bureau of Land Management that:

a. Yes, with a few exceptions where the training was unnecessary, all of the inspectors have gone through the training program.

b. 83.

c. 94.

Q.2. a. What are the qualifications of individuals hired to be inspectors?

b. What are the qualifications for the PET position?

c. What is the salary of a PET?

A.2. I have been advised by the Bureau of Land Management that:

a. In the past, the Department hired individuals with oil field experience or those accredited through a 2-year oil and gas Technology Program. (Casper College in Casper, Wyoming, is an example of one location where this Program is offered.) Of the inspectors in place at the time of the transfer, approximately half had direct oil field experience. The remainder, hired as part of the Department's effort to increase the size of the inspection force, generally had either field experience or had completed the 2-year oil and gas technology program.

b. The qualification standards have not changed since the BLM-MMS merger. The position is part of the 802 personnel series which includes all engineering technicians.

c. GS-4 ($11,949) to GS 11 ($24,508).

Q.3. How many individuals who did compliance and inspection work under BLM before the transfer are now doing inspections as Petroleum Engineering Technicians?

A.3. I have been advised by the Bureau of Land Management that the BLM compliance specialists and the Petroleum Engineering Technicians are in a different personnel job series. Their duties generally do not overlap. There has been no effort to convert, en masse, BLM compliance specialists to Petroleum Engineering Technicians. However, a few individuals in BLM's other specialties, especially the other compliance personnel, are being familiarized with the PET work on an an individual basis. BLM will maintain the inspector job as a full-time position with specialized training, but may train some BLM personnel from other disciplines as inspectors.

Q.4. Why is the Department proposing to change the reporting and paying requirements for royalties from 30 days after the month of production to 60 days following production?

A.4. This change has been made primarily to implement recommendation number 14 in the Report of the Commission on Fiscal Accountability of the Nation's Energy Resources. In that recommendation the Commission suggested the 60-day payment time period for royalties on natural gas. For consistency sake, the Department is proposing in its regulations implementing the Royalty Management Act of 1982 a standard 60-day payment provision.

We feel that this will significantly reduce the number of errors and adjustments made by royalty payors and will make Federal royalty payment standards consistent with that for the payment of royalties in the private sector.

Q.5. How much is the Department of the Interior spending on royalty management audits?

A.5. Audits of royalty related activities are conducted both by the Office of the Inspector General (IG) as well as by the Minerals Management Service.

For FY 1983 the budget for the Royalty Compliance Division of the Minerals Management Service is $6.5 million. The proposed appropriation level in the FY 1984 budget is $5.1 million. This reduction is due to reallocation of funds to the royalty collection line item in the royalty management program budget. Combined with reductions in workload resulting from completion of the close-out and reconciliation of account balances under the old Royalty Accounting System. Of this amount, approximately $.9 million is devoted to the MMS share of cooperative efforts with States and Indian Tribes. The remainder funds the other compliance efforts of the Royalty Management Program including company audits, lease audits, and the reconciliation of account balances remaining from the old Royalty Accounting System.

The Office of the Inspector General (IG) contracts with CPA firms to conduct lookback royalty audits as well as performing audits on some of the companies themselves. CPA firms have been or will be involved in a total of 23 lookback audits of royalty payors:

two of these audits were completed in 1982; seven will be completed this fiscal year; the remainder are under negotiation with private accounting firms. The total appropriated for lookback audits is $10.6 million.

Q.6. The proposed royalty management regulations call for a $10 fine for delinquent monthly reports. Why is the proposed fine so low?

A.6. The proposed regulation calls for the application of a $10 penalty for each erroneous accounting line item. The regulation specifically calls for the penalty assessment to be applied to any report specified for the new AFS system in the Royalty Management Program Payor Handbook. In most cases, particularly in the case of large payors, the multiplied effect of assessing the $10 penalty for each erroneous accounting line item on large volume reports could generate extremely large penalties. Under the provisions of this regulation, in the case of the largest royalty payors, a penalty of $40,000 to $50,000 per month could be assessed when a payor reached an error level of 10%.

Q.7. What is the number of fines collected by the Office of Surface Mining since the Save Our Cumberland Mountains, Inc., et. al., v. Watt suit was filed?

Early in 1981, the Department began a series of meetings during which we sought a means of addressing the phenomenal backlog of unassessed violations from the last Administration. In these cases citations had been issued but no fines collected. Save Our Cumberland Mountains, Inc., et. al, Watt was filed on September 8, 1981.

In December 1981, Assistant Secretary Daniel N. Miller directed that all previously unassessed cases should be assessed by the Office of Surface Mining (OSM) and appropriate collection procedures implemented. Prior to the December 29, 1982, order of the court in that case, OSM had issued and mailed proposed assessments of civil penalties for 1,099 failure to abate cessation orders issued prior to October 6, 1980. Final orders have been referred to the Office of the Solicitor for further collection action. The Department has obtained eight judgments for a total $570,125. Proofs of claim have been filed in bankruptcy proceedings involving 17 assessments. Judgment remedies have been initated in cases involving four assessments in the amount of $247,500 and a total of $63,175 has been collected.

Q.8. What procedures are in place for handling repeat violations of the Surface Mining Act?

A.8. The Office of Surface Mining and all State regulatory authorities have a comprehensive set of regulatory procedures to deal with repeat offenders. Civil penalties are increased for operators with previous violations. If an operator has a "pattern of violations"--repeated violation of the same requirements--OSM or the State may suspend or revoke the permit to mine. OSM or the State may also assess civil penalties against corporate officers and seek injunctions and criminal penalties. Finally, operators who have outstanding violations can be and are denied new permits until the violations are abated or are in the process of being corrected.

Q.9. Are there an additional 1,000 mines in which no enforcement is taking place? What is your recommendation?

A.9. Although plaintiffs' counsel in the Save Our Cumberlands Mountains Inc., case has so alleged, the Office of Surface Mining (OSM) has no information to the effect that there are any mines escaping enforcement.

OSM and the Office of the Solicitor are attempting to determine what information, if any, plaintiffs' attorney has regarding any mines where there is allegedly an absence of enforcement.

Q.10. a. Does the State of Virginia allow coal operators to receive surface mining permits if the operator is delinquent in payment of AML fees.

b. Are other States having similar problems?

A.10. a. On January 4, 1983, OSM sent a letter to Virginia requesting that the State voluntarily amend its program to provide it the authority to reject permits submitted by operators who are delinquent in the payment of AML fees. The State did not reply. On June 1, 1983, the Secretary notified Virginia that a State program amendment was required to correct this deficiency. On June 9, 1983, OSM published a Federal Register notice requiring that the State submit an amendment within 60 days.

b. OSM notified four other States which appeared to lack the authority to deny permits for failure to pay fees--Illinois, Iowa, Montana and West Virginia. Illinois did not respond, and action similar to that taken in the case of Virginia was initiated. The Secretary notified the State of Illinois

on June 7, 1983, that an amendment was required, and a Federal Register notice requiring the State to submit an amendment within 60 days was published on June 16, 1983. West Virginia and Montana indicated that they had adequate authority. Iowa agreed to work with OSM to make necessary rule changes.

Part B

Q.1. A number of States with approved regulatory programs have encountered serious problems affecting the effective implementation, administration, maintenance and enforcement of their programs. On March 11, 1983, OSM initiated investigations in Oklahoma, Kansas, and Tennessee.

a. What are the results of these investigations? Has OSM recommended that changes be made in the regulatory programs of these States, and if so, what are they?

b. What purpose does OSM's statistical sampling oversight inspections of state regulatory programs serve? What are the other components of OSM's inspection and oversight effort?

c. What steps should be taken to improve OSM's oversight of State programs?

A.1. a. OSM has initiated proceedings to determine the nature of problems existing in the three States. Part 733 of the regulations mandates a procedure that must be followed in these cases. The States were informed of problem areas in their programs which OSM had identified. A schedule for bringing their programs into compliance was proposed. The States had the opportunity to request an informal conference. Each State has availed itself of an informal conference. At present, OSM is reviewing the results of the information provided by the States to determine what, if any, additional action by OSM is needed to assure that the State programs are being properly implemented.

b. Statistical sampling was adopted for Federal oversight inspections in recognition of the large number of inspectable units throughout the country. Particularly in States with a large number of mine sites, statistical sampling is the only practical means of determining if State inspections are being conducted in compliance with the approved State program.

There are many components to OSM's oversight efforts. These include periodic review of all aspects of the approved State programs, such as permitting procedures, the adequacy of bonding requirements, the provisions for public participation procedures, and other activities that comprise the State program efforts. Inspection reports, including enforcement actions are periodically reviewed by the OSM field offices to determine their adequacy along with State permits to ensure that they meet the technical requirements of the performance standards.

All these efforts culminate in preparation of the Annual Evaluation Reports which are submitted by the Field Office Directors to the Director of OSM and to Congress. It is these efforts which, in fact, have led to the initiation of the 733 proceedings referred to above.

c. The OSM oversight process is working well. Under the current program, OSM is able to identify both the successful implementation of State programs, as well as those areas where deficiencies exist. It should be noted that so far, however, only five reports on States with primacy, of the ultimately 25 which will be prepared, have been submitted to the Congress. If, during the course of preparation of the additional 20 reports, OSM feels the oversight process should be refined, it will not hesitate to do so.

Q.2. Evaluation Reports of state regulatory programs are prepared by OSM as a means of assessing corrective measures needed to improve mine reclamation programs in each state. The reports are said to contain insufficient data, and lack uniformity in the program period reviewed.

a. Has a consistent format been designed for these Evaluation Reports?

b. Why has there been such disparity in the extent and type of information submitted by each state.

c. Would you agree that use of a consistent report format is necessary to evaluate accurately the progress of reclamation work in each State?

A.2. a. For the 1983 Annual Evaluation Reports, of which five have been submitted to the Congress, OSM has developed and is using a uniform format.

b. Previously prepared reports, in which some disparities existed were only interim reports, prepared shortly after primacy had been achieved by the various States and submitted to Congress during FY 1982.

c. As indicated in response to the previous part of this question, OSM has developed a consistent report format for the 1983 Annual Oversight Reports.

Q.3. AML fees, whose payment is required under SMCRA, go toward reclaiming abandoned lands mined prior to enactment of the law. Certain coal mine operators have failed to pay their AML fees.

a. In your view, what should be the Federal Government's role in enforcing AML fee collection?

b. It is my understanding that in recent months OSM has directed state agencies to deny new mine permits to operators delinquent in their AML payments. Do you believe this has worked effectively to force operators to pay their fees?

c. What action would you recommend in states, such as Virginia, who claim they do not have the authority in their regulatory program to deny mine permits based on delinquent AML accounts?

d. Who bears the ultimate responsibility for paying the fees--the corporations that own the coal or the companies that mine it? Do you think this issue needs to be clarified in OSM's regulations?

e. How should OSM respond to coal companies that have gone out of business while still owing AML fees?

A.3. a. Overall, voluntary compliance by operators who owe AML fees has been excellent. Approximately 98% of all fees due are voluntarily paid by the operators. Regarding those operators who fail to pay, the Federal Government has a responsibility to vigorously attempt to collect debts properly owed the United States. With Secretary Watt's arrival at the Department Department the OSM initiated a vigorous collections program including: hiring a commercial collections firm to collect outstanding debts prior to litigation; issuing contracts for services to locate delinquent debts in order to effectuate service of process and working with our Solicitor's office to improve this collection litigation effort.

b. Of the various remedies available to the Department to force operators to pay properly owed fees, action initiated to deny new permits is one of the most productive and cost effective tools available.

c. OSM is working with each State to resolve outstanding differences regarding the authority to deny new permits based on an operator's prior, unresolved violation of the Surface Mining Act. In the

meantime, OSM is proceeding to develop inventories for all States to enable States and the Federal Government to match permit applicants with previous violators.

With respect to Virginia, in particular, OSM has (as indicated in Part A, A.7.) requested Virginia to submit a program amendment to correct the problem.

d. Under the Surface Mining Act and the applicable AML regulations, the "Mine Operator" is responsible for payment of the AML fee. The question of which party is ultimately responsible for payment of the fee must be determined on the facts of each individual case. Given the approximately 98% voluntary payment rate of the AML fee by operators, regulatory clarification appears unnecessary.

e. It is OSM's policy to follow into the bankruptcy court those companies that have gone out of business and declared bankruptcy. OSM's Solicitor's office is filing proofs of claims in bankruptcy court in order to collect the government's share of any distribution. In addition, OSM is compiling lists of all operators in each State who have gone out of business with fees owing so that if they go back into business, the companies will be required to pay any debts prior to receiving new permits.

Q.4. Concerns have been expressed that OSM isn't enforcing the surface mining law. Currently, OSM is under a Federal court order that requires the Agency to: 1) take enforcement action in 1700 cases in which coal operators had ignored cessation orders due to illegal practices and 2) assess and make all reasonable efforts to collect $44 million in unpaid fines.

a. Mr. Pendley, I am seriously concerned by the violations of SMCRA committed by these companies. What is OSM doing to remedy the situation?

b. Should strip mining companies who have refused to pay fines or correct damages be granted additional mining permits once they pay the fine?

c. What corrective action should be taken to prevent these operators from violating the strip mining law at some future date?

d. How many cases, in total, are pending in which operators have not paid fines levied by OSM?

e. According to the Appalachian group "Save Our Cumberland Mountains," in addition to the 1700 cases cited in which OSM's directives have been ignored, there are over 1000 additional mines for which no enforcement has taken place. Mr. Pendley, do you agree with this? If so, what do you recommend should be done?

A.4. a. The Department is currently working hard to ensure that the provisions of the 1977 Surface Mining Act are being enforced.

Although the states now have primacy in regulating surface coal mining and reclamation operations, the Office of Surface Mining is responding fully to its statutory oversight duty to ensure that the States implement and maintain effective enforcement programs. The Department has been and is proceeding with a vigorous program to bring to bear the various enforcement provisions of the Act against those operators who remain in violation of the Act.

The Department has dedicated resources, including setting up a Solicitors Special Enforcement Unit, supported by OSM field personnnel in Knoxville, Tennessee, to pursue injunctions and civil penalties or criminal sanctions against individuals responsible for unabated violations of the Act. The Department will be using another tool: revoking or blocking permits to operators who remain in violation of the law. In fact, OSM has already begun a process, by computer, to identify those companies and individuals who remain in violation of the Act in order to match them with applicants for new permits. This program is already having a substantial impact in Kentucky, Alabama, and Tennessee.

The Department has begun an aggressive collections program to collect the unpaid penalties and clear the caseload. OSM has requested and acquired Special Assistant U.S. Attorney status for a group of its attorneys, most of whom are based in the Field Solicitor's offices in Knoxville, Tennnessee and Charleston, West Virginia. These attorneys are now authorized by the Department of Justice to handle directly civil collection cases on behalf of the Department of the Interior.

OSM is now implementing an automated management information system to track collection cases more effectively. The Department has requested a Supplemental to the FY 1983 Budget and has

submitted an Amendment to the FY 1984 Budget to increase the OSM and Solicitor's office staff resources dedicated to alternative enforcement in Knoxville and increased AML and civil penalty collections.

Consistent with the Debt Collections Act of 1982, the Department is enlisting the aid of the private sector to better collect outstanding debts. OSM now has pilot projects with Dunn and Bradstreet Commercial collections and Hooper-Holmes Inc. to collect unpaid debts or to locate delinquent debtors and their assets.

b. Once an operator has fully paid his fines or penalties, the statute provides no authority for rejecting permits in the future.

c. Denial or revocation of permits, aggressive collection of past due debts, individual civil penalties assessed against corporate officers, injunctive relief and criminal prosecution are all available to OSM under the Surface Mining Act and should be utilized in appropriate cases. Likewise the States should vigorously use those and other remedies available under State statutes to force compliance with the Act.

d. We now have pending cases involving over 3,200 unpaid Notices of Violation and Cessation Orders issued by inspectors under the Act, and upon which OSM has assessed penalties. Those

citations translate into about 1,000 cases being processed through the Federal court system. During the years 1978-1983, OSM inspectors issued approximately 20,000 Notices of Violation and Cessation Orders. A little over 3,000--or about 15%--now remain uncollected.

e. We are attempting to determine what basis, if any, exists for the allegation that there are over 1,000 mines for which no enforcement has taken place.

Q.5. Title III of SMCRA authorizes the Mineral Institutes. These were set up to encourage graduate level research on national and regional problems in mineral engineering at universities, and to train mineral scientists and engineers. There are currently 31 Institutes receiving funds under SMCRA. Federal funding, which includes research grants and annual allotments, is scheduled to terminate by the end of Fiscal Year 1984.

a. What is the status of the Department's plan for Institute consolidation as mandated in the Appropriations Act of 1982? What are the Administration's reasons for supporting consolidation of the Institutes?

b. How much funding has the Administration identified from public and private sources to meet the objectives of the Mineral Institute program?

c. What indications are there that the Mineral Institutes will continue active research once Federal funding is discontinued?

d. What steps do you think the Administration should take to ease the transition from significant Federal funding to zero Federal funding for the Institutes?

A.5. a. The Department was directed by the Congress to reduce the number of Mineral Institutes and to effect consolidation. In response to the Congressional directive, the Advisory Committee established by the Act, recommended concentration of research activities. Accordingly, in 1982 the Secretary transferred responsibility for the program to the Bureau of Mines to facilitate closer interaction with its research staff, and four centers of generic technology, each with several affiliated institutions, were established:

Comminution - University of Utah

Mine Systems Design and Rock Mechanics - Virginia Polytechnic Institute

Pyrometallurgy - University of Missouri at Rolla

Mine Waste Treatment and Recovery - University of Nevada

A fifth generic center was established in 1983:

Respirable Dust - Pennsylvania State University and University of West Virginia.

These five generic centers are now funded, each in excess of $1 million, useable over the next two academic years.

The Administration supports consolidation as a mechanism to clearly focus government-industry-university cooperative efforts in major areas of national concern, and by so doing to better train scientists at the pre- and post-doctoral levels and to facilitate the equipping of specialized and costly scientific laboratories.

b. The Mineral Institutues have been very successful in attracting funding from both private and State sources for research. According to reports sent by each of the Mineral Institutes, they collectively received for research $20,105,000 from State legislatures and agencies and $11,508,000 from private sources in the current academic year. Each also received substantial amounts for educational purposes from the respective State legislatures. The Mineral Institutes also successfully competed for a total of $7,009,000 for mineral-related research from bureaus in the Department of the Interior and $1,452,000 from the National Science Foundation in FY 1982 funds. The Department expects the Institutes to be successful in the future in competing for other State, private and Federal contracts.

c. The educational institutions will certainly continue in existence once Federal funding of the Institute ceases, since the Mineral Institutes can be expected to receive support for research on state government and private sector problems.

d. The Administration has already taken significant steps to ease the transition to zero funding. The five generic centers are each funded from FY 1983 funds for the next two academic years: 1983-84 and 1984-85. All 31 Institutes are provided base funding of $150,000 each from FY '83 funds for the next academic year: 1983-84. Moreover, approved funding is generally available until expended.

Q.6. In response to the President's National Materials and Minerals Program Plan issued in April 1982, the Bureau of Mines identified several goals designed to promote necessary research and collection of mineral information.

a. One of these goals was the "wise and efficient use of mineral resources." Mr. Pendley, what is the Bureau doing to implement this goal?

b. What is the scope of research being undertaken by the Bureau with respect to mineral recycling, substitution, waste recovery, efficient processing, conservation and reclamation.

c. What should be the Federal Government's role in developing substitutes for strategic minerals?

d. What efforts are being made under the Conservation and Development program to address the problems of acid mine drainage, waste disposal, and mine subsidence?

e. What do you see as impediments to the U.S. reaching a state of mineral independence?

f. What should the Bureau do to encourage the development of domestic non-energy mineral resources, so as to decrease U.S. mineral supply vulnerability?

g. What is the best approach to encourage the development of alternative and diversified foreign sources of supply?

h. The Bureau has indicated that its major focus is toward supporting increased domestic mineral production. What steps, in your view, would accomplish this?

i. What should be the range of Government supported research of mining, smelting, and refining processes?

j. What could be done to improve the Bureau's research of specific scientific and technical problems?

A.6. a. The "wise and efficient use of mineral resources" has been a long-standing goal of the Bureau since its establishment in 1910. Accordingly, the mining and metallurgical research of the Bureau is directed at the utilization of lower-grade resources finding processes to make use of tailings and wastes that would otherwise be discarded, developing new and improved metals, alloys, and materials that extend service life and/or use less material, and developing methods to reclaim mined lands and smelter and slag dumps.

b. The FY '83 appropriations for "minerals and materials research" is more than $32 million. This area embraces a wide spectrum of research such as: fundamental scientific investigations of mineral, metal, and alloy formation and composition; increased ore recovery in mines; improved mineral beneficiation processes; solvent extraction; recovery of precious metals from scrap (including special efforts on high-technology scrap generated by the Department of Defense); recycling of refractory materials currently derived from imported minerals and not salvaged; and extraction of trace elements not currently produced as by- or co-products of current industrial practice.

c. The Federal Government must be selective in developing substitutes for strategic minerals because many of the 80 minerals designated as "strategic and critical" for stockpiling under the Stock Piling Act are in fact relatively abundant and reasonably priced in peacetime. Our efforts to find substitutes should concentrate on those mineral materials which come from distant and vulnerable foreign sources, and for which domestic productive capability is small

and for which stockpile goals are incomplete. Materials such as cobalt, columbium, platinum, and tantalum are examples of mineral materials highly important for sophisticated Department of Defense materiel and high on our list for the development of substitutes and alternatives, or for the development of processes which utilize such materials more efficiently and with minimum waste generation.

d. These efforts have been underway for many years in the Bureau. In addition, the new Mine Waste Treatment and Recovery Generic Research Center is funded for more than $1 million. Research underway seeks to minimize the contact of air and water with acid-forming minerals in abandoned mine workings--both coal and metal--that leads to the formation of acid waters. Mining systems such as longwalls in coal reduce the voids that are left in conventional room-and-pillar mining of underground seams, and the filling of both underground mine voids and surface workings also minimizes air-water-mineral contact. The Bureau of Mines pioneered the development of pressure flushing methods for filling mine voids and in the sealing of mine shafts and entries, and present work extends methods already developed by the Bureau and made mandatory by regulatory authorities. Waste disposal problems are ameliorated by at least two major avenues of attack: (1) finding uses for materials classified as wastes, and (2) disposing of true waste material by improved methods that reduce or eliminate the previous hazards. The development of acid-resistant sulfur concrete that is now replacing Portland cement concrete is an example of research to reduce sulfur wastes. Mine subsidence effects are reduced by improved mining systems such as longwalls in coal

which reduce the uneven surface depressions clearly visible in many older areas once mined by the room-and-pillar method, and by appropriate pillar design accompanied by backfilling. Reducing oxidation of acid-forming minerals in old waste piles with the addition of slow-release pellet retardants is a recent accomplishment that should be an improvement over acid water treatment.

e. It would be unrealistic to aspire to a state of complete mineral independence in peacetime in the case of every mineral, because economic deposits of some very important minerals have so far been discovered only in foreign locations.

f. The Bureau of Mines has two major missions: (1) to develop the factual data base for identifying and evaluating impediments and opportunities for changing laws and policies to facilitate domestic development and (2) through basic, broadly applicable mining and metallurgical research to bring technological improvements and innovations to every part of the mineral cycle: exploration, development, mining, concentrating, smelting, refining, fabrication, and recycling; and helping to transfer such improvements to the private sector. This Administration is seeking to remove or reduce various impediments to domestic mineral development by making available the minerals on public lands for leasing or for location under the Mining Law of 1872, by extending our jurisdiction over undersea mineralby establishment of the Exclusive Economic Zone, by reducing excessive and unnecessarily burdensome regulations while still faithfully enforcing the law and by encouraging the development of domestic exploration, mining, smelting, refining, and recycling through our

economic policies as embodied in the Economic Recovery Tax Act of 1981 and other fiscal measures.

g. A strong and healthy U.S. and free-world economy will best facilitate the development of both domestic and foreign sources of minerals. This is the objective of President Reagan's domestic and international economic and security policies. More specifically, in the minerals area we are working closely with our NATO and SEATO allies, Japan, the ASEAN countries, and other free world sources of minerals to provide them with appropriate technical assistance and financing of projects deemed in our mutual interest. We have a special interest in developments in the minerals area in Canada with which we share a long common and relatively unguarded boundary.

h. Increased domestic mineral production will come primarily from an improved economic climate. Accordingly, the fundamental policies of this Administration are directed toward this end as described above. In truth, it would be unrealistic to expect that research per se would necessarily lead to increased domestic mineral production, although successful research at any part of the mineral cycle will of course aid in improving the efficiency of the domestic industry and thus facilitate its participation in the domestic economy. Encouraging mineral search by making public lands available for that search will, in the long run, determine the level of future production.

i. The Government should assist at any point in the mineral cycle where it is clear that research may improve our national security posture, health and safety, productivity, or the environment, and

where it is also clear that the private sector is unable to accomplish the desired results. When such conditions exist the Government should concentrate on generic research of relatively broad applicability, and the research should, where possible, responsibly involve cooperation among government, industry, and academia.

j. The exponential growth of scientific knowledge and technical progress requires ever-increasing efforts to stay abreast of developments in related fields that are germane to the improvement of mineral science and technology. Improvements must come from synergistic processes involving continual government-industry-university interaction. The Bureau was a pioneer in this type of activity, locating its research centers on the campuses of major mineral universities, and constantly working with the mineral sector of the economy. The calibre of Bureau research derives from the qualifications of its scientific and technical professionals and from the improved scientific equipment in its research facilities.

Q.7. In FY 1984, the Bureau proposed a program reduction of $7,686,000 in the area of health and safety technology. Can you explain the reason for these proposed cuts?

A.7. The Department and the Administration continue to support mine health and safety research. The reductions proposed for FY '84 in this area derive from the following considerations. The Bureau of Mines now has a mature health and safety research program. The Bureau's strategy is to do basic and some of the higher risk applied and development research on the most critical health and safety problems and encourage industry, under the incentive of an established health-safety regulatory program,

to undertake the research associated with design, testing, production engineering and application engineering. As the Bureau has shifted to focusing on more basic research problems, it has been able to operate its health and safety research program at lower levels. In the past, the emphasis in human factor research was on developing training programs to meet the training requirements of the Federal Mine Safety and Health Act of 1977. Many of these programs have been completed and released to MSHA and industry. The FY 1984 request reflects the reduced need to develop training programs. Bureau health and safety research is coordinated on a continuing basis with the Mine Safety and Health Administration, the National Institute for Occupational Safety and Health, and major mine research agencies in foreign nations.

Q.8. Despite the Bureau's recognition that conservation technology and development research are two vital components to reducing our dependency on foreign mineral imports, the agency requested a program reduction of $9,932,000 in this area. What was the rationale behind this request?

A.8. The reduction in conservation and development research reflects the shift in emphasis toward increased generic research of wide applicability rather than multitudinous projects aimed at the solution of more narrow short-term problems that in many cases are more amenable to solution by the private sector or through necessary regulation. Of the total reduction, $5,322,000 is related to the coal mining technology program transferred from the Department of Energy. In the past, the program focused on the incremental improvement of existing technology. To this end, equipment has been developed, surface tested, and demonstrated in specific mines. Since FY 1983 the Bureau has been involved in bringing this work to a logical conclusion.

Q.9. To what extent will the USGS be involved in the selection of nuclear waste repositories?

A.9. The Geological Survey will provide frequent advice and consultation to the DOE and NRC concerning geological and hydrological aspects of various rock types, and various regions and will review, as requested by DOE and NRC, the geological investigation done on specific sites. The GS will not be directly involved in the selection of a repository or repositories. An exception is the potential site at the Nevada test site where GS is involved in the gathering of the geological and hydrological data necessary to characterize that potential site. As elsewhere, the Survey will not be involved directly in the selection or non-selection of that site for a nuclear waste repository.

Q.10. To what extent will the USGS assess the geologic and structural adequacy of nuclear waste sites?

A.10. As requested by DOE and NRC, the GS will review for adequacy and completeness the geological and hydrological data submitted by those organizations developing the repository site data. The exception, as previously noted, is the Nevada test site.

Q.11. Mr. Pendley, some time ago there were press accounts suggesting that you were pressuring Mr. Robert Horton to leave his position as Director of the Bureau of Mines. Mr. Horton still holds this position.

a. Will you be able to work compatibly with him?

b. Do you feel that your relationship with Mr. Horton will, in any way, affect your capacity to perform your duties if you are confirmed as Assistant Secretary of Energy and Minerals.

A.11. The press accounts were in error.

a. Yes.

b. The Director of the Bureau of Mines and I will continue to work cooperatively toward the achievement of President Reagan's strategic and critical minerals objectives.

Q.12. I understand that the Department is drafting regulations to implement the Federal Oil and Gas Royalty Management Act of 1982. The draft regulations divide the responsibility for royalty management between two distinct bureaus within the Department. The BLM will be responsible for lease management and site security; the MMS will be responsible for the collection, accounting, and distribution of royalties.

a. Isn't it true that the Linowes Commission recommended the consolidation of royalty accounting and lease inspection functions in one organization?

b. The BLM and the MMS do not report to the same Assistant Secretary. If you are confirmed, the MMS will report to you, but the BLM will report to the Assistant Secretary for Land and Water. Is this the kind of consolidated organization that the Linowes Commission recommended?

c. I understand that the BLM and the MMS will publish separate regulations to implement the Royalty Management Act. Doesn't this approach divide and dilute the responsibility for implementing the Act in a comprehensive fashion?

A.12. a. The Linowes Commission presented a number of organizational options to the Secretary one of which was the establishment of a separate royalty management program office with its own inspection and enforcement resources. The Department concluded that this proposal would duplicate and overlap scarce resources. The more efficient alternative and the one selected, places all land management operations in BLM and the financially related royalty functions in MMS. We have established ongoing working relationships to share information and feedback from lease inspection activities to assure that this information is worked into the determination of value and the calculation of royalty payments on Federal and Indian Leases.

b. Yes, it is one of the options it recommended. The lines of communication between the two Assistant Secretaries are excellent. In addition, Secretary Watt considers the royalty program of highest priority and will assure a coordinated and effective program.

c. No. The BLM regulations will deal with those portions of the Act affecting on-site lease management and transportation. The MMS regulations will deal with the financial and valuation aspects of the new law. Portions dealing with Sections 202 and 205 of the Act and provisions dealing with Section 109 will appear in both proposed rulemakings. When published as final rules all regulations will be properly placed in the Code of Federal Regulations.

Q.13. The latest draft of the regulations provides that royalty payments are due at the end of the second month following the month during which the oil or gas is produced and sold. An earlier draft of the regulations provided that royalty payments would be due at the end of the first month following the month during which the oil or gas is produced and sold.

a. How much interest on royalty payments will be lost to the Federal Treasury as a result of this change?

b. What is the existing practice in this respect?

A.13. This change has been made primarily to implement recommendation number 14 in the report of the Commission on Fiscal Accountability of the Nations's Energy Resources. In that recommendation the Commission suggested the 60-day payment time period for royalties on natural gas. For consistency sake, the Department is proposing in its regulations implementing the Royalty Management Act of 1982 a standard 60-day payment provision.

We feel that this will significantly reduce the number of errors and adjustments made by royalty payors and will make Federal royalty payment standards consistent with that for the payment of royalties in the private sector.

a. We estimate a one time loss to the Treasury of $14 million in interest. This loss will be more than offset, in a short period of time, by increased efficiency in reporting and paying.

b. Payment is due at the end of the first month following the month in which production and sale occurs in the case of all oil and gas.

Q.14. The draft regulations provide that a penalty of $10.00 may be assessed for monthly reports not received by MMS by the designated due date. Do you believe that a $10.00 penalty will be sufficient to induce a major oil and gas company to file its monthly report on time?

A.14. The proposed regulation calls for the application of a $10 penalty for each erroneous accounting line item. The regulation specifically calls for the penalty assessment to be applied to any report specified for the new AFS system in the Royalty Management Program Payor Handbook. In most cases, particularly in the case of large payors, the multiplied effect of assessing the $10 penalty for each erroneous accounting line item on large volume reports could generate extremely large penalties. Under the provisions of this regulation, in the case of the largest royalty payors, a penalty of $40,000 to $50,000 per month could be assessed when a payor reached an error level of 10%.

Q.15. In his April 28 Semiannual Report, the DOI Inspector General stated that "For each dollar spent on audit resources, we identified approximately $7 of potential additional royalties."

a. Do you agree with this statement?

b. How much is the Department currently spending on audit resources?

c. What would be the optimal amount of spending on audit resources?

d. Please provide the Committee with a detailed status report on the Department's audit efforts.

A.15. a. Based on the first 22 months of audit activity of royalty payors carried on by MMS the numbers provided in the Inspector General's report appear to be conservative.

b. Audits of royalty related activities are conducted both by the Office of the Inspector General as well as by the Minerals Management Service.

For FY 1983 the budget for the Royalty Compliance Division of the MMS is $6.5 million. The proposed appropriation level in the FY 1984 budget is $5.1 million. This reduction is due to reallocation of funds to the royalty collection line item in the royalty management program budget combined with reductions in workload resulting from completion of the close-out and reconciliation of remaining lease account balances under the old Royalty Accounting System.

Of this amount, approximately $.9 million is devoted to the MMS share of cooperative efforts with States and Indian Tribes; the remainder is devoted to the other compliance efforts of the Royalty Management Program including company audits, lease audits, and the reconciliation of account balances remaining from the old Royalty Accounting System.

The Office of the Inspector General (IG) contracts with CPA firms to conduct lookback royalty audits as well as performing the audits on some of the companies themselves. CPA firms have been or will be involved in a total of 23 lookback audits of royalty payors: two of these audits were completed in 1982; seven will be completed this fiscal year; and the remainder are under negotiation with private accounting firms. The total appropriated for lookback audits is $10.6 million.

c. Current spending levels for audit activities are optimal and should be sustained at least until the lookback period has been completed. A reassessment of audit activity will be needed following the implementation and operational experience of our new accounting systems.

d. Enclosed is the most recent status report on MMS audit activity as well as an audit work plan for FY 1983.

Q.16. An earlier draft of the royalty management regulations included a a point system for determining the amount of a civil penalty. The most recent draft of the MMS regulations does not include such a point system. I am told that the Department intends to include such a point system. I am told that the Department intends to include the point system in a "payor handbook" instead of including the point system in the regulations.

a. Is this true?

b. (If yes)

(1) Why did the MMS decide to make this change?

(2) What will be the legal force and effect of the payor handbook?

(3) Will the payor handbook be incorporated into the regulations by reference?

(4) Will the point system in the payor handbook be subject to change without notice in the Federal Register and an opportunity for public comment?

A.16. a. Yes.

b. (1) This action was in direct response to a resolution of the Advisory Committee on Minerals Accountability which felt that it was a mistake to make the mechanical aspects of the penalty system part of the Code of Federal Regulations until the system had been tested and experience gained on the effectiveness of the process. The change was made in the final draft of the handbook after review by the Advisory Committee.

(2) The handbook is being incorporated by reference into the regulations and is considered to have the force of regulation for procedural and informational matters.

(3) Same as (2).

(4) The point system will not be changed without notice in the Federal Register. An appropriate period for public comment will be allowed before the point system is revised or changed.

Q.17. Please provide the Committee with a detailed status report on the new Auditing and Financial System.

A.17. The Auditing and Financial system (AFS) became operational in February of this year. Currently data for all offshore leases and about 18 percent of onshore and Indian leases are processed on the system. The remaining onshore leases will be converted to the AFS in stages between now and

April of 1984, with the system becoming fully operational in May of next year. When fully operational, the system will process over 1,000,000 lines of accounting data each month.

The conversion of the AFS has been a much more arduous process than originally contemplated because of the large number of unexpected payors who must report to the new system. Originally, it was expected that 13,000 payors would have reporting responsibilities under the AFS. That number has now grown to 17,845 as of the end of June 1983. We are now expecting an average of 9 payors reporting on each lease onshore. This has not only required an expansion of the systems capacity of the AFS but has increased the complexity of the conversion process to the new system. Another problem has been the high error rate among earlier payors to the system, due primarily to poor cooperation from payors during the early phases of conversion. Due to MMS efforts in the later phases, the error rate has been substantially reduced. We are now expected to reach the systems integrity error rate level of 5% by the end of the current year. A major asset in reducing payor error rate has been a computerized system which produces a "mirror image" report form which requires the payors to produce only about 12% of the data required on each month's submission. This process when applied to the remainder of the onshore convertees will significantly reduce the error rate in the offices which must still convert to the AFS.

Another problem has been the lack of systems capacity available to run the AFS. Since workload is now expected to exceed original estimates by 500%, MMS is pursuing a new larger computer system

which will become available to operate the AFS, PAAS, and BRASS systems. This new computer is expected to become available in late 1984 or early 1985.

The first six months of operation for the AFS was a period of adjustment and a time when most of the effort on the part of MMS personnel was spent in correcting problems with the system which had been discovered during systems development and testing. The AFS is now fully tested and operational.

Q.18. Please provide the Committee with a detailed status report on the Department's site security efforts, including:

a. the Department's training program for site security inspectors;

b. the number of site security inspectors currently employed;

c. the number of site security inspectors that the Department plans to hire;

d. the specific steps taken by the Department to hire qualified site security inspectors;

e. the number and nature of the site security inspections undertaken by the Department since enactment of the Federal Oil and Gas Royalty Management Act of 1982; and

f. the results of those site security inspections in terms of the number of violations cited and the amount of fines levied.

A.18. I have been advised by the Bureau of Land Management that:

a. Site security inspection is an integral part of the Inspection and Enforcement Program implemented in the field by petroleum engineering technicians predominantly. With few exceptions where training was unnecessary, all of the inspectors have gone through the training program. Currently, the program consists of two

weeks spent on drilling and 2 weeks on production, plus on-the-job training. BLM is reviewing the course and plans to revise it to include a week prior to the drilling and production modules for general familiarization with oil field activities. This will allow BLM to train individuals with no prior experience to function as Petroleum Engineering Technicians. The training is comprised of (1) initial location work, (2) formal training, and (3) continued on-the-job training. Site security inspection will be a key topic for the FY 84 training workshops for the continuing training program as well as being emphasized in the formal training courses.

b. 83.

c. 17. The personnel target for the onshore inspection program has been established at 100, though BLM is examining if the requirements in the Federal Oil and Gas Royalty Management Act of 1982 require additional staff. The Secretary has determined that vacancies in the program shall be filled until the target has been reached.

d. The Department has undertaken extensive recruitment efforts both inside the Department as well as at two and four year colleges to recruit qualified inspectors. Within the Department three extensive training programs have been conducted to increase the level of competence and to bring new qualified candidates into the program. The BLM is now expanding the pool of potential inspectors by increasing the training program to provide for hiring individuals without oil field experience or a 2-year degree in oil field technology.

e. Site security inspections are concurrent with other inspections. For the January-March, 1983 period there were 5,527 inspections, including 4,890 detailed lease inspections and 637 value verification inspections. Both include site security.

f. There have been 1,165 warnings and 45 shut-ins resulting from detailed lease inspections. There have been 21 warnings and no shut-ins resulting from volume verification inspections. The regulations published on July 11, 1983, are not effective until September 9, so no fines have been levied for site security violations per se.

Q.19. In May 1983, the Subcommittee on Oversight and Investigations of the House Committee on Interior and Insular Affairs released a staff report on "Secretary of the Interior James G. Watt's Five-Year Oil and Gas Leasing Plan for the Outer Continental Shelf". That report reached the following findings:

a. Would you care to comment on these findings?

(1) Secretary Watt has failed to develop a leasing plan that conforms with the guidelines and requirements of the Outer Continental Shelf Lands Act Amendments. (2) He has refused to cooperate with coastal States and to allow them the meaningful participation in decisionmaking that the law requires. (3) His plan is unlikely to assure fair market value for public resources, and may result in massive losses to the Federal Treasury. (4) He has manipulated the balancing of environmental and energy needs mandated by law to justify an accelerated leasing program throughout all areas of the Outer Continental Shelf. (5) His program is not based on rational economic or energy policy. (6) The Secretary's intransigence will produce an avalanche of litigation, which will delay the expedited exploitation of OCS resources the Congress envisioned when it passed the Outer Continental Shelf Lands Act Amendments.

b. Do you think that the high level of antagonism between the DOI and the States and environmental community over the OCS leasing plan is unavoidable?

c. What steps will you personally take to attempt to reduce this level of antagonism?

A.19. a. In response to the quoted excerpt from the majority staff report of the Subcommittee on Oversight and Investigations of the House Committee on Interior and Insular Affairs:

(1) The U.S. Court of Appeals for the District of Columbia has unanimously upheld Secretary Watt's July 1982 5-Year OCS Program as in full compliance with the OCS Lands Act Amendments.

(2) Secretary Watt has solicited and received full participation by coastal States in the OCS leasing program as mandated by Congress. Several Memoranda of Agreement (MOA) have been entered into between the Secretary and various coastal States resolving the nature of OCS offerings.

(3) The U.S. Court of Appeals affirmed the manner in which the Department of the Interior seeks to assure receipt of fair market value.

(4) The U.S. Court of Appeals affirmed the Secretary's balancing of environmental and energy needs.

(5) The U.S. Court of Appeals found that the Secretary's program constituted rational and legal energy and environmental policies.

(6) Since the adoption of the Secretary's 5-Year OCS Oil and Gas Leasing Programs, in excess of $6.9 billion has been received in bonus bids through the issuance of over 1,000 leases covering 5.2 million acres. The Central Gulf of Mexico offering, conducted

on May 25, 1983, received in excess of $3.4 billion in high bids despite the forecast of the Congressional Budget Office that only $1.4 billion would be bid. Three weeks after lease issuance in that offering drilling had been initiated on leased tracts. Secretary Watt's program will achieve the expedited exploration of OCS resources envisioned by the Congress.

b. There does not exist a high level of antagonism between the Department of the Interior and the States and environmental community over the OCS leasing plan. States with which the Department has concluded satisfactory agreements for OCS leasing include: Alaska (3 sales), Florida, North Carolina, Virginia, Maryland, New Jersey, and New York.

c. The dialogue now ongoing between the MMS and the Department and the States must continue. The OCS Lands Act Amendments envisioned a careful balancing which must be achieved. Through open lines of communications with all interested parties we can fulfill the balance, protect the environment, and provide jobs, opportunity, energy, and national security.

Q.20. a. Once confirmed for the position for which you are nominated will you have any authority over or role in the selection of nominees for OCS advisory committees?

b. If so, can you assure this Committee that scientists considered for OCS Advisory Committees will no longer be subjected to any political screening by the Republican National Committee?

A.20. a. Yes.

b. The Department of the Interior will continue to seek the appointment of highly qualified candidates for service on those Committees. As in the past, views as to those appointments will be received from a number of diverse entities.

Q.21. a. Is the Department of the Interior planning to adopt a new policy regarding oil and gas leasing on lands within our National Wildlife Reguges?

b. What is the new policy?

c. What is the basis for the new policy?

d. Will the public be allowed to comment on the new policy?

e. Is the new policy honestly consistent with the ruling in the 1981 decision by the Interior Board of Land Appeals, on which the new policy is purported to be based?

A.21. I have been advised by the Bureau of Land Management and the Fish and Wildlife Service that:

a. The final rules, soon to be published, contain the same provisions as the regulations now in place. BLM and FWS are examining whether any changes in the current rules are appropriate.

b. See a.

c. See a.

d. If and when BLM and FWS recommend revisions in refuge leasing policy, such proposed regulations will be available for public comment.

e. The final rules, soon to be published, are consistent with the 1981 decision by the Interior Board of Land Appeals.

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